TITLE 11 – ZONING

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CHAPTER 1 INTRODUCTION TO TITLE 11

100 ENACTMENT AND TITLE

100.1 The Zoning Commission for the District of Columbia, pursuant to authority conferred by Congress under the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (hereafter, the Zoning Act), after public notice and hearing prescribed by law, does hereby establish and adopt these regulations (2016 Regulations) and the Zoning Maps accompanying them to supersede in full the zoning regulations and the Zoning Maps, as originally adopted on, and effective as of 12:01 a.m. May 12, 1958 (1958 Regulations), as amended, and that are hereby repealed.

100.2 Title 11 is organized into a series of subtitles consisting of the Zoning Regulations and the Administrative Regulations.

100.3 These regulations and the Zoning Maps (as adopted) became effective at 12:01 A.M. September 6, 2016.

100.4 The 1958 Regulations, as amended, shall continue in full force and effect as follows:

(a) With respect to any construction or occupancy authorized under this title;

(b) With respect to any right accrued, any duty imposed, any offense committed, any penalty incurred, or any proceeding commenced under or by virtue of the regulations repealed; and

(a) With respect to any civil suit, action, or proceeding pending to enforce any right under the authority of the regulations repealed, any suit, action, or proceeding shall proceed with, and conclude under, the regulations in existence when the suit, action, or proceeding was instituted.

100.5 The long title of Title 11, as adopted, shall be as follows:

REGULATIONS CONTROLLING AND RESTRICTING THE HEIGHT, BULK, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE OPEN SPACES AROUND THEM, THE DENSITY OF POPULATION, AND THE USES OF BUILDINGS, STRUCTURES, AND LAND IN THE DISTRICT OF COLUMBIA, AND FOR SAID PURPOSES DIVIDING THE DISTRICT OF COLUMBIA INTO ZONING DISTRICTS.

100.6 The regulations in this title shall be composed of the Zoning Regulations and the Administrative Regulations, and may be cited by the short title of the "Zoning Regulations of the District of Columbia."

100.7 Zoning shall be designated after public hearing in the manner prescribed by the Zoning Act).

101 INTERPRETATION AND APPLICATION

101.1 In their interpretation and application, the provisions of this title shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity, and general welfare to:

(a) Provide adequate light and air;

(b) Prevent undue concentration of population and the overcrowding of land; and

(c) Provide distribution of population, business and industry, and use of land that will tend to create conditions favorable to transportation, protection of property, civic activity, and recreational, educational, and cultural opportunities; and that will tend to further economy and efficiency in the supply of public services.

101.2 The regulations in this title and the Zoning Maps are designed with consideration of the:

(a) Character of the respective zones;

(b) Suitability of each zone for the uses permitted in each zone under this title;

(c) Encouragement of the stability of zones and of land values in those zones; and

(d) Requirement that zoning shall not be inconsistent with the Comprehensive Plan for the National Capital.

101.3 The provisions of this title shall govern whenever they:

(a) Require larger setbacks, courts, or other open spaces;

(b) Require a lower height or bulk of buildings or a smaller number of stories;

(c) Require a greater percentage of lot to be unoccupied; or

(d) Impose other higher standards than are required in or under any statute or by any other municipal regulations.

101.4 The provisions of any statute or other municipal regulations shall govern whenever they:

(a) Require larger yards, courts, or other open spaces;

(b) Require a lower height or bulk of buildings or a smaller number of stories;

(c) Require a greater percentage of lot to be unoccupied; or

(d) Impose higher standards than are required by this title.

101.5 No building, structure, or premises shall be used, and no building, structure, or part of a building or structure shall be constructed, extended, moved, structurally altered, or enlarged except in conformity with this title.

101.6 Where a lot is divided, the division shall be effected in a manner that will not violate the provisions of this title for yards, courts, other open space, minimum lot width, minimum lot area, floor area ratio, percentage of lot occupancy, parking spaces, or loading berths applicable to that lot or any lot created.

101.7 If any section or provision of this title, or any boundary of any zone on the Zoning Maps adopted under this title, is decided by the courts to be unconstitutional or invalid, that decision shall not affect the validity of the regulations and the Zoning Maps as a whole or any part of the regulations or maps, other than the part determined to be unconstitutional or invalid.

101.8 For the purpose of reference to zone districts in any statute or other municipal regulations not included within this title, the following cross references are offered.

101.9 The following zone districts are considered residential zone districts:

(a) R, Residential House (single family);

(b) RF, Residential Flat;

(c) RA, Residential Apartment (multi-family);

(d) RC-1, Reed-Cooke (multi-family);

(e) CG-1 Capital Gateway (multi-family); and

(f) D-1 Downtown (multi-family).

101.10 The following zones districts are considered mixed-use zones, commercial zones, or special purpose zones:

(a) ARTS, Mixed-Use Uptown Arts;

(b) CG, Capital Gateway (except CG-1);

(c) D, Downtown (except D-1);

(d) HE, Hill East;

(e) MU, Mixed-Use;

(f) NC, Neighborhood Mixed-Use;

(g) RC, Reed-Cooke (except RC-1);

(h) SEFC, Southeast Federal Center;

(i) StE, Saint Elizabeths East Campus;

(j) USN, Union Station North; and

(k) WR, Walter Reed.

101.11 Industrial zone districts are considered PDR, Production, Distribution, and Repair zone districts.

102 VESTED RIGHTS UNDER THE PREVIOUS 1958 ZONING REGULATIONS, AS AMENDED.

102.1 A project identified within this section shall be considered to have vested development rights (vested project) subject to the provisions and requirements of the 1958 Zoning Regulations, any conditions of approval, and subject to the conditions of Subtitle A §§ 102.4 through 102.7.

102.2 An application for a building permit that has been officially accepted by the Department of Consumer and Regulatory Affairs as being complete prior to the effective date of this title, if the building permit plans are consistent with the 1958 Regulations, shall be considered a vested project.

102.3 An application for a building permit filed on or after the effective date of this title shall be considered a vested project if the building permit plans are consistent with:

(a) An unexpired approval of a first-stage, second-stage, or consolidated planned unit development; variance; special exception; campus plan; design review in the CG or SEFC zones; or concept design by the Historic

Preservation Review Board or Commission of Fine Arts; provided, the vote to approve occurred prior to the effective date of this title;

(b) An unexpired approval of a variance, special exception, or design review in the CG or SEFC zones granted on or after the effective date of this title, for which a public hearing was held prior to the effective date of this title;

(c) An unexpired approval of a first-stage, second-stage, or consolidated planned unit development that was granted after the effective date of this title, but which was set down for a public hearing prior to the effective date of this title; or

(d) A large tract review completed prior to January 1, 2015.

102.4 An application to the Board of Zoning Adjustment or the Zoning Commission for a modification, other than a minor modification, to a vested project shall conform with the 2016 Regulations.

102.5 Any condition in an order of approval for a vested project identified within this section shall be considered binding despite any less restrictive requirements under the 2016 Regulations unless otherwise approved as a modification by the regulating authority.

102.6 A project that utilizes vested rights under the 1958 Regulations shall be subject only to the provisions of the 1958 Regulations, unless approved as a modification by the regulating authority.

102.7 An approved amendment to a vested project that includes a physical building or structural addition shall be subject to the regulations in effect at the time of issuance of a building permit.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 2 ADMINISTRATIVE AND ZONING REGULATIONS

200 CODE ORGANIZATION

200.1 Title 11 is organized into a series of subtitles consisting of the Zoning Regulations and the Administrative Regulations.

200.2 The Zoning Regulations consist of:

(a) Subtitle B - Definitions, Use Categories, and Rules of Measurement;

(b) Subtitle C - General Rules;

(c) Subtitle D - Residential House (R) Zones;

(d) Subtitle E - Residential Flat (RF) Zones;

(e) Subtitle F - Residential Apartment (RA) Zones;

(f) Subtitle G - Mixed-Use (MU) Zones;

(g) Subtitle H - Neighborhood Mixed-Use (NC) Zones;

(h) Subtitle I - Downtown (D) Zones;

(i) Subtitle J - Production, Distribution, and Repair (PDR) Zones;

(j) Subtitle K - Special Purpose Zones;

(k) Subtitle U - Uses; and

(l) Subtitle W - Specific Zone Boundaries.

200.3 The Administrative Regulations consist of:

(a) Subtitle A - Authority and Applicability;

(b) Subtitle X - General Procedures;

(c) Subtitle Y - Board of Zoning Adjustment Rules of Practice and Procedure; and

(d) Subtitle Z - Zoning Commission Rules of Practice and Procedure.

200.4 The land use subtitles are Subtitles D, E, F, G, H, I, J, K, U, and W of this title.

201 RELATIONSHIP OF GENERAL SUBTITLES TO LAND USE SUBTITLES

201.1 The general regulations of Subtitle C are to be read in concert with the specific use category regulations of each land use subtitle, including tables which identify use requirements, permissions, conditions, and exceptions specific to each zone.

201.2 The land use subtitles are to be read and applied in addition to the regulations included as a part of:

(a) Subtitle A - Authority and Applicability;

(b) Subtitle B - Definitions, Use Categories, and Rules of Measurement;

(c) Subtitle C - General Rules; and

(d) Subtitle U - Uses.

201.3 When a provision of a land use subtitle modifies or supersedes a provision contained in Subtitle C, the land use subtitle shall govern.

201.4 Where there is a conflict between a land use subtitle and the regulations of Subtitle C regarding the same regulatory topic, the land use subtitle shall govern unless otherwise stated.

202 ZONE DISTRICTS

202.1 For the purpose of this title, the District of Columbia shall be divided into the following zone districts:

(a) Residential House (R) – low-density single dwelling unit residential;

(b) Residential Flat (RF) - row dwelling zones for two (2) to four (4) units;

(c) Residential Apartment (RA) - general apartments;

(d) Mixed-Use (MU) and Neighborhood Mixed-Use (NC) – mixed-use commercial-residential zones;

(e) Downtown (D) - central business and high-density mixed-use commercial-residential;

(f) Production, Distribution, and Repair (PDR); and

(g) Special Purpose zones for areas tied to a unique development plan.

202.2 The zones shall be as shown, defined, and bounded on the Zoning Map.

202.3 Subtitle W contains specific zone location information, including square and lot for certain zone districts with defined geographical boundaries.

203 DEVELOPMENT STANDARDS

203.1 The development standards for a zone shall be determined by the combination of the general rules in Subtitle C, general standards in each land use subtitle, and zone-specific regulations as stated in the development standard tables and text in each land use subtitle.

204 USE PERMISSIONS

204.1 Subtitle U contains use permissions for R, RF, RA, MU, ARTS, D and PDR zones. Use permissions for all other zones are contained in their respective subtitles.

204.2 Subtitle B contains use definitions, use categories, and use groups.

205 ZONING MAP

205.1 The official Zoning Map of the District of Columbia shall be the zoning map that is produced and maintained by the Office of Zoning effective on the effective date of this title.

205.2 The zoning map shall be available for public access from the Office of Zoning, either on paper or electronically.

205.3 The official Zoning Map and all explanatory material on the map shall be incorporated by reference and made a part of this title.

205.4 In addition to the official Zoning Map, a printable electronic summary extract of the official Zoning Map shall be prepared quarterly, published on the Office of Zoning's website, and made available to the public for printing upon request.

205.5 The electronic summary extract of the official Zoning Map shall not supersede the official Zoning Map, but shall be prepared for the purpose of guidance only.

206 ZONE BOUNDARY LINES

206.1 The zone boundaries shall be shown on each section of the Zoning Map.

206.2 The scale of the Zoning Map and the dimensions entered on the map shall be shown on each section of the map to serve as guides.

206.3 Dimensioned zone boundaries showing on the Zoning Map are intended to coincide generally with lot lines. Where a dimensional boundary line coincides within one foot (1 ft.) or less with a lot line of a lot of record on May 12, 1958, that boundary line shall be construed to be the lot line at that location.

206.4 Whenever a portion of any zone is indicated as a strip paralleling an opened or unopened street, the width of this strip, unless delimited by lot lines or otherwise dimensioned, shall be assumed to be one hundred feet (100 ft.) measured at a right angle from the nearest street to which it is parallel and adjacent.

206.5 In all other cases, the zone boundary lines shall be intended to follow existing lot lines, the center lines of streets, alleys (including any closed streets or alleys not previously zoned), and natural water courses.

206.6 In the case of tidal water areas, the zone boundary shall be either the mean high water level or the established pierhead lines, whichever gives the greatest control.

206.7 In cases of disagreement or uncertainty existing as to the exact location of a zone boundary line, the Board of Zoning Adjustment, upon appeal filed in accordance with Subtitle Y, shall determine the exact location of the boundary.

207 ZONE BOUNDARY LINE CROSSING A LOT

207.1 When a zone boundary line divides a lot that was in single ownership on May 12, 1958, the permitted use and bulk of a structure located on that lot may be determined as follows:

(a) The allowable bulk for the portion of the lot located in a lesser restrictive use zone may be increased by the bulk permitted on the portion of the lot located in a more restrictive use zone; provided, that no portion of any structure permitted on the lesser restricted portion of the lot shall be extended to the more restricted portion of the lot;

(b) The calculation for determining additional bulk shall include only that portion of the lot in the more restrictive use zone that is located within thirty-five feet (35 ft.) of the zone boundary line;

(c) The additional bulk authorized in this section shall not exceed the maximum bulk permitted on the portion of the lot located in the lesser restrictive use zone;

(d) For computation purposes, any portion of the lot located in an R-1 or R-2 zone shall be deemed to be limited to a floor area ratio (FAR) of 0.4, any portion of the lot located in an R-3 zone shall be deemed to be limited to an FAR of 0.6, and any portion of the lot located in an RF-1, RF-2, or RF-3 zone shall be deemed to be limited to an FAR of 0.9; and

(e) Except for accessory open parking facilities permitted elsewhere in this title, the portion of the lot located in a more restrictive use zone shall be devoted only to required setbacks or courts or other open spaces.

207.2 If approved by the Board of Zoning Adjustment as a special exception under Subtitle X, the regulations applicable to that portion of a lot located in a lesser restrictive use zone that control the use, height, and bulk of structures and the use of land may be extended to that portion of the lot in a more restrictive use zone; provided:

(a) The extension shall be limited to that portion of the lot in the more restrictive use zone but not exceeding thirty-five feet (35 ft.);

(b) In authorizing an extension, the Board of Zoning Adjustment shall require compliance with Subtitle A § 207.1(d);

(c) The extension shall have no adverse effect upon the present character and future development of the neighborhood; and

(d) The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, screening, location of structures, lighting, or any other requirements it deems necessary to protect adjacent or nearby property.

207.3 For the purpose of interpreting this section, the zones established in this title are listed in the following groups of decreasing use restrictions:

(a) R and MU-11 zones;

(b) RF, RA, MU-1, MU-2, MU-15, MU-16, and MU-23, D-2 zones, and RC-1;

(c) MU-3 through MU-9, MU-17 through 21, MU-24 through MU-28, D-1, D-3 through D-7, NC zones, and ARTS-1 through ARTS-3, RC-2, and RC-3;

(d) MU-10, MU-12, MU-13, MU-14, MU-22, and MU-29, and ARTS-4; and

(e) PDR zones.

208 APPLICABILITY OF ZONING ON GOVERNMENT OWNED LAND

208.1 The following government properties shall not be considered included in any zone:

(a) Properties owned by the Government of the United States and used for or intended to be used for a Federal public building or use;

(b) Properties owned by the government of the District of Columbia in the Central Area (as set forth in D.C. Official Code § 2-1004(c); and

(c) Any District of Columbia governmental land or building uses that were either in existence or were substantially planned, documented, and invested in prior to May 23, 1990.

208.2 Any change or expansion in the use of land or buildings or any new construction or additions to buildings on the properties referenced in Subtitle A § 208.1(c) of this section shall be subject to zoning.

208.3 Properties acquired by the government of the United States and properties in the Central Area acquired by the government of the District of Columbia which are intended to be used for public building or use shall become automatically unzoned.

208.4 District of Columbia public buildings in the Central Area shall be exempt from zoning but shall continue to require approval of the National Capital Planning Commission, pursuant to § 5(c) of the National Capital Planning Act of 1952, approved July 10, 1952 (66 Stat. 781, 788; D.C. Official Code § 2-1004(c)).

208.5 All properties of the District of Columbia Government not otherwise exempt by this section shall be subject to zoning.

209 RESTRICTIONS ON UNZONED LAND

209.1 No building permit or certificate of occupancy shall be issued nor proceeding instituted before the Board of Zoning Adjustment, nor shall any property in private ownership be used for any purpose until after the Zoning Commission has designated zoning for the property, except as may otherwise be authorized by the Zoning Commission as a map or text amendment.

209.2 Nothing in this chapter shall prevent either of the following:

(a) Minor repairs and alterations to buildings and structures for which no building permit is required under the D.C. Construction Code Supplements; or

(b) A caretaker from residing on property formerly owned by the Government of the United States, or property in the Central Area formerly owned by the government of the District of Columbia, for which zoning has not been designated, for the purpose of maintaining and preventing the deterioration of the premises.

210 AMENDMENTS

210.1 As provided in the Zoning Act, the Zoning Commission may from time to time amend any part or all of the regulations in this title and the Zoning Maps adopted in this title.

210.2 Amendments to this title or the Zoning Maps may be proposed by any of the following:

(a) The owner of property for which amendments are proposed;

(b) The Zoning Commission;

(c) The National Capital Planning Commission;

(d) The Office of Planning;

(e) Any other department of the District of Columbia or Federal Government;

(f) An Advisory Neighborhood Commission; or

(g) Private persons.

210.3 [RESERVED]

210.4 The Director of the Office of Zoning shall adopt a form of application, and establish the number of copies, the required supporting data to accompany each application, and the time and manner of filing all applications.

210.5 The Director of the Office of Zoning may from time to time amend the form of application, number of copies, the required supporting data, and the time and manner of filing by announcing at a public hearing and posting a notice of the change in the Office of Zoning without any advance notice and without amending the provisions of this title.

210.6 Before adopting any proposed amendment to this title or the Zoning Maps, the Zoning Commission shall submit the proposed amendment to the Office of Planning for opinion or report; provided, that if the Office of Planning fails to transmit its opinion or report to the Zoning Commission within the period specified in Subtitle A § 211.1, the Zoning Commission may proceed to take final action on the amendment.

210.7 Before adopting any proposed amendment to this title or the Zoning Maps, the Zoning Commission shall hold a public hearing on the proposed amendment in accordance with Subtitle Z §§ 408 and 506.

210.8 The hearing notice shall include a general summary of the proposed amendment to this title and the boundaries of any territory included in the proposed amendment to the Zoning Map.

210.9 Notice of the hearing shall be given in accordance with Subtitle Z §§ 402 and 502. The Zoning Commission shall give additional notice of the hearing as it deems feasible and practicable.

210.10 Any amendment to this title or the Zoning Maps shall require the favorable vote of not less than a majority of the full membership of the Zoning Commission.

211 REFERRALS TO OTHER AGENCIES

211.1 Where the provisions of this title provide for the referral of an application to another public agency for review and report, a period of forty (40) days from the date of the submission shall be allowed, unless a different period is stated specifically in this title or is requested by the Zoning Commission.

211.2 The period of time may be extended for an additional forty (40) days upon the mutual agreement of all agencies involved.

CHAPTER 3 ADMINISTRATION AND ENFORCEMENT

300 AUTHORITY

300.1 In accordance with § 11 of the Zoning Act, the Mayor shall administer and enforce the Zoning Regulations.

301 BUILDING PERMITS

301.1 Except as provided in Subtitle A §§ 301.5 and 301.7, a building permit shall not be issued for the proposed erection, construction, conversion, or alteration of any structure unless the plans for the erection, construction, conversion, or alteration fully conform to the provisions of this title.

301.2 To determine compliance with the provisions of this title, each application for a building permit shall be accompanied by any of the following that is deemed necessary:

(a) Scaled drawings showing the:

(1) Exact shape, topography, and dimensions of the lot to be built upon;

(2) Plan, elevation, and location by dimensions of all existing and proposed structures, and the proposed use of those structures;

(3) Parking and loading plans and the basis for computation of those plans; and

(4) Other information necessary to determine compliance with this title; and

(b) An official building plat, in duplicate, prepared by the Surveyor of the District of Columbia, upon which the applicant shall indicate in ink and to the same scale dimensions:

(1) All existing and proposed structures;

(2) The number, size, and shape of all open parking spaces, open loading berths, and approaches to all parking and loading facilities; and

(3) Other information necessary to determine compliance with the provisions of this title.

301.3 Except as provided in the building lot control regulations for Residence Districts in Subtitle C and § 5 of An Act to amend an Act of Congress approved March 2, 1893, entitled "An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities," and for other purposes, approved June 28, 1898 (30 Stat. 519, 520, as amended; D.C. Official Code § 9-101.05, a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record; except a building permit may be issued for:

(a) Buildings and structures related to a fixed right-of-way mass transit system approved by the Council of the District of Columbia;

(b) Boathouse, yacht club, or marina that fronts on a public body of water, is otherwise surrounded by public park land, and is zoned MU-11;

(c) Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure;

(d) Trapeze school and aerial performing arts center to be constructed pursuant to Subtitle K;

(e) A structure in the USN zone to be constructed on an air rights lot that is not a lot of record; and

(f) Buildings and structures approved as part of a campus or private school plan or medical campus plan.

301.4 Except as provided in Subtitle A §§ 301.9 through 301.13, any construction authorized by a permit may be carried to completion pursuant to the provisions of this title in effect on the date that the permit is issued, subject to the following conditions:

(a) The permit holder shall begin construction work within two (2) years of the date on which the permit is issued; and

(b) Any amendment to the permit shall comply with the provisions of this title in effect on the date the permit is amended.

301.5 If an application for a type of building permit enumerated in Subtitle A § 301.6 is filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone classification of the site of the proposed construction, the processing of the application and the completion of work pursuant to the permit shall be governed as follows:

(a) If one (1) of the building permit applications listed in Subtitle A § 301.6 is filed on or before the date on which the Zoning Commission makes a decision to hold a hearing on the amendment, the processing of the application and completion of the work shall be governed by Subtitle A § 301.4. The application shall be accompanied by any fee that is required, and by the plans and other information required by Subtitle A § 301.2, which shall be sufficiently complete to permit processing without substantial change or deviation, and by any other plans and information that are required to permit complete review of the entire application under any applicable District of Columbia regulations;

(b) If the application is filed after the date on which the Zoning Commission has made a decision to hold a hearing on the amendment, the application may be processed, and any work authorized by the permit may be carried to completion, only in accordance with the zone classification of the site pursuant to the final decision of the Zoning Commission in the proceeding, or if the case is pending, in accordance with either the most restrictive zone classification being considered for the site or, if more restrictive, the site's current zone classification;

(c) For purposes of paragraph (b) of this subsection, the phrase "zone classification being considered for the site" shall include any zone district classification that the Zoning Commission has decided to notice for adoption and the zone district classification that is in effect on the date the application is filed;

(d) The limitation in paragraph (b) of this subsection shall not prevent the issuance of a building permit that is necessary in an emergency to protect the public health or safety; and

(e) The limitation in paragraph (b) of this subsection shall not apply to a decision to hold a hearing on an application to amend the Zoning Regulations or Zoning Maps filed by an owner of property pursuant to Subtitle Z of this title.

301.6 For the purposes of Subtitle A § 301.5, the term "building permit" refers to the following types of permits:

(a) A permit for new construction, including constructing, adding to or moving a building or structure;

(b) A permit to erect or replace an awning, canopy, tent, or other membrane structure, or similar structures as a principal structure;

(c) A permit to erect a radio, television, or other telecommunications tower as a principle structure; or

(d) A permit for a change of use or occupancy, increase in load or modification of floor layout of the building or structure.

301.7 All applications for building permits authorized by orders of the Board of Zoning Adjustment may be processed in accordance with the Zoning Regulations in effect on the date the vote was taken to approve the application; provided, that all applications for building permits shall be accompanied by the plans and other information required by Subtitle A § 301.2, which shall be sufficiently complete to permit processing without substantial change or deviation.

301.8 A building permit issued in accordance with Subtitle A §§ 301.4 through 301.6, and §§ 301.9 through 301.11 shall not be renewable if permitted to lapse, unless it is reprocessed in accordance with all provisions of this title.

301.9 Notwithstanding Subtitle A § 301.4, a building permit application (including a foundation-to-grade permit application) (the Permit Application) for construction of a new one- (1) family dwelling or flat, or for construction of an addition or alteration to an existing one- (1) family dwelling or an existing flat not involving a conversion to an apartment house, or an addition or alteration to an existing apartment house in an RF zone shall be processed, and any work authorized by the permit may be carried to completion pursuant to the provisions of the RF regulations in place as of July 17, 2014, if:

(a) The Permit Application was legally filed with, and accepted as complete by, the Department of Consumer and Regulatory Affairs prior to February 1, 2015; or

(b) The project has:

(1) An unexpired approval of a variance or special exception by the Board of Zoning Adjustment; or

(2) An unexpired approval of a design or concept design by the Historic Preservation Review Board (including a delegated approval made pursuant to 10-C DCMR §§ 319 through 321), or Commission of Fine Arts; and

(3) The vote to approve the variance, special except, design, or concept design or the delegated action occurred:

(A) Prior to June 26, 2015; or

(B) On or after June 26, 2015, and the application for the variance, special exception, design, or concept design was filed prior thereto.

301.10 Notwithstanding Subtitle A § 301.4, a building permit application (including a foundation-to-grade permit application) (the Permit Application) for construction involving the conversion of a one- (1) family dwelling or flat to an apartment house in an RF zone shall be processed, and any work authorized by the building permit may be carried to completion pursuant to the provisions of the RF regulations in place as of July 17, 2014, if:

(a) The Permit Application was legally filed with, and accepted as complete by, the Department of Consumer and Regulatory Affairs prior to July 17, 2014; or

(b) The project has:

(1) An unexpired approval of a variance or special exception by the Board of Zoning Adjustment; or

(2) An unexpired approval of a design or concept design by the Historic Preservation Review Board (including a delegated approval made pursuant to 10-C DCMR §§ 319 through 321), or the Commission of Fine Arts; and

(3) The vote to approve the variance, special exception, design, or concept design or the delegated action occurred:

(A) Prior to June 26, 2015; or

(B) On or after June 26, 2015, and the application for the variance, special exception, design, or concept design was filed prior thereto.

301.11 Notwithstanding Subtitle A § 301.4 and except as provided in Subtitle A § 301.12, a building permit application (including a foundation-to-grade permit application) (the Permit Application) for construction involving the conversion of an existing non-residential building to an apartment house in an RF zone shall be processed, and any work authorized by the building permit may be carried to completion pursuant to the provisions of the RF regulations in place as of July 17, 2014, if:

(a) The Permit Application was legally filed with, and accepted as complete by the Department of Consumer and Regulatory Affairs prior to June 26, 2015; or

(b) The project has:

(1) An expired approval of a variance or special exception by the Board of Zoning Adjustment; or

(2) An unexpired approval of a design or concept design by the Historic Preservation Review Board (including a delegated approval made pursuant to 10-C DCMR §§ 319 through 321), or the Commission of Fine Arts; and

(3) The vote to approve the variance, special exception, design, or concept design or the delegated action occurred:

(A) Prior to June 26, 2015; or

(B) On or after June 2015, and the application for the variance, special exception, design, or concept design was filed prior thereto.

301.12 Notwithstanding Subtitle A § 301.11, an applicant for a building permit described in Subtitle A § 301.11 may choose to have its building permit application processed in accordance with the RF regulations in place as of June 26, 2015 by indicating its choice in writing as part of its building permit application. A Board of Zoning Adjustment application may be amended to reflect the applicant's intended choice.

301.13 Notwithstanding Subtitle A § 301.4, a building permit application (including a foundation-to-grade permit application) (the Application) for construction involving any penthouse other than as restricted in Subtitle C § 1500.4 may be processed, and any work authorized by the building permit may be carried to completion, pursuant to the provisions of the roof structure regulations in place as of November 19, 2015, if the Application was legally filed with, and accepted as complete by, the Department of Consumer and Regulatory Affairs, and had received a Letter of Zoning Compliance from the Zoning Administrator prior to that date.

SOURCE: Final Rulemaking & Order No. 14-13B published at 63 DCR 9533 (July 15, 2016).

302 CERTIFICATES OF OCCUPANCY

302.1 Except as provided in Subtitle A §§ 302.2, 302.7, 302.8, and 302.9, no person shall use any structure, land, or part of any structure or land for any purpose until a certificate of occupancy has been issued to that person stating that the use complies with the provisions of this title and the D.C. Construction Codes Supplement, Title 12 DCMR.

302.2 Certificates of occupancy shall not be required for the following:

(a) Separate dwelling units in a building with multiple dwelling units, or offices in an office building, if a certificate of occupancy is issued for the entire structure; or

(b) A single dwelling unit.

302.3 Except in the case of a place of worship, all certificates of occupancy shall be conspicuously posted in or upon the premises to which they apply so that they may be seen readily by anyone entering the premises.

302.4 If a building permit application for the erection or alteration of a structure is submitted, a certificate of occupancy for that structure shall not be issued until the erection or alteration is completed to the point of availability of occupancy for use, except as provided in Subtitle A § 302.5.

302.5 Where an alteration to a structure is required by law in order to effect compliance with regulations adopted pursuant to the Means of Egress Law, approved December 24, 1942 (56 Stat. 1083, as amended; D.C. Official Code §§ 6-703.03 through 6-703.09), a certificate of occupancy for that structure may be issued prior to the alteration; provided, that the use of the structure for which a certificate of occupancy is desired, if a new use, is not one that would require a greater amount of egress or fire protection facilities under the Means of Egress Law than is required for the use existing prior to the alteration.

302.6 Any certificate of occupancy issued under the terms of Subtitle A §§ 302.4 or 302.5 shall be subject to compliance with regulations adopted pursuant to the Means of Egress Law.

302.7 If an application for a certificate of occupancy is filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone district classification of the site of the proposed use, the processing of the application, and the establishment of the occupancy, shall be governed as follows:

(a) If the application is filed on or before the date on which the Zoning Commission makes a decision to hold a hearing on the amendment, the processing of the application and completion of the work shall be governed by Subtitle A § 302.8;

(b) Except as otherwise provided in Subtitle A § 302.11, if the application is filed after the date on which the Zoning Commission has made a decision to hold a hearing on the amendment, the application may be processed, and any use authorized by the certificate of occupancy may be established and maintained only in accordance with the most restrictive provision of the zone district classifications being considered for the site or in accordance with the zone district classifications of the site pursuant to the final decision of the Zoning Commission in the proceeding;

(c) For purposes of paragraph (b) of this subsection, the phrase "zone district classifications being considered for the site" shall include any zone district classification that the Zoning Commission has decided to notice for adoption and the zone district classification that is in effect on the date the application is filed;

(d) The limitation in paragraph (b) of this subsection shall not apply to a decision to hold a hearing on an application to amend the Zoning Regulations or Zoning Maps filed by an owner of property pursuant to Subtitle Z of this title; and

(e) The limitation in paragraph (b) of this subsection shall not apply to an application for a certificate of occupancy that only changes the identity of the owner or occupant and that does not change a use authorized by a certificate of occupancy that was issued either before the decision to hold a hearing on the amendment or pursuant to paragraph (a) of this subsection.

302.8 Any use that is authorized by a certificate of occupancy may be established and continued pursuant to the terms of the certificate and the provisions of this title in effect on the date that the certificate is issued, subject to the following conditions:

(a) The use shall be designated on the certificate of occupancy in terms of a use classification that is established by this title;

(b) The use shall be established within six (6) months of the date on which the certificate is issued; and

(c) Any amendment of the use authorized by the certificate shall comply with the provisions of this title in effect on the date that the certificate is amended.

302.9 Applications for certificates of occupancy authorized by orders of the Board of Zoning Adjustment may be processed in accordance with the Zoning Regulations in effect on the date the orders were promulgated; provided, that all applications for certificates of occupancy shall be accompanied by information sufficiently complete to permit processing without substantial change or deviation.

302.10 Certificates of occupancy issued in accordance with Subtitle A §§ 302.7, 302.8, or 302.9 shall not be renewable if permitted to lapse unless processed in accordance with all provisions of this title.

302.11 This subsection shall govern the issuance of a certificate of occupancy for the use of a structure, or part thereof, if the establishment of the use is dependent upon the

erection, construction, conversion, or alteration of the structure, or part thereof; provided:

(a) The use authorized shall be designated as a proposed use at the time of application for the building permit on which the use depends;

(b) A building permit shall be issued in compliance with Subtitle A § 301;

(c) At the time of issuance of the building permit that is required by this subsection, the proposed use shall be designated in a provisional certificate of occupancy; and

(d) The use designated in the provisional certificate of occupancy shall comply with all provisions of this title in effect on the date on which the building permit required by this subsection is issued.

303 COMPLIANCE WITH CONDITIONS IN ORDERS

303.1 The provisions of this section shall apply when a building permit or certificate of occupancy has been issued under the authority of an order of the Board of Zoning Adjustment or the Zoning Commission, and the order of the Board of Zoning Adjustment or the Zoning Commission sets forth any condition to the issuance of the building permit or certificate of occupancy, or to the approval of a variance, special exception, design review, or planned unit development.

303.2 If the order of the Board of Zoning Adjustment or the Zoning Commission conditions the issuance of a building permit or certificate of occupancy upon the recordation of a covenant, then, for purposes of Subtitle A §§ 303.4 and 303.5, each term and condition in the covenant shall be treated as a condition to the issuance of the building permit or the certificate of occupancy.

303.3 If a building permit or certificate of occupancy has been issued under the authority of a decision of the Board of Zoning Adjustment to approve a special exception or variance, then for purposes of Subtitle A §§ 303.4 and 303.5, each condition to the approval of the special exception or variance shall be treated as a condition to the issuance of the building permit or certificate of occupancy.

303.4 Any person who owns, controls, occupies, maintains, or uses any building, structure, or land, or any part of any building, structure, or land, shall at all times comply with any condition to the issuance of the certificate of occupancy for the building, structure, or land, or part thereof.

303.5 Any person who erects, constructs, reconstructs, alters, converts, owns, controls, occupies, maintains, or uses any building, structure, or any part of any building or structure shall at all times comply with any condition to the issuance of the building permit for the building, structure, or part thereof.

304 DEVIATIONS AND MODIFICATIONS PERMITTED BY ZONING ADMINISTRATOR'S RULING

304.1 The flexibility or deviation provided by this section shall not be applicable for any calculation or for determining compliance with Subtitle U §§ 301.2 or 320.2.

304.2 The Zoning Administrator is authorized to permit the following deviations, for building permits that are not otherwise authorized by an approved order of the Zoning Commission, if the Zoning Administrator determines that the deviation or deviations will not impair the purpose of the otherwise applicable regulations:

(a) Deviations not to exceed two percent (2%) of the area requirements governing minimum lot area, maximum percentage of lot occupancy, and area standards of courts;

(b) Deviations not to exceed the lesser of two percent (2%) or twelve inches (12 in.) of the linear requirements governing minimum lot width;

(c) Deviations not to exceed the lesser of ten percent (10%) or twelve inches (12 in.) of the linear requirements governing minimum rear yard, minimum side yard, and court width; and

(d) Deviations not to exceed two percent (2%) of the linear frontage limitation for eating/drinking establishments in Subtitle K § 811.9(a).

304.3 The Zoning Administrator shall consider the following issues, as applicable, in determining any deviation will not impair the purpose of the applicable regulations pursuant to Subtitle A § 304.2:

(a) The light and air available to neighboring properties shall not be unduly affected;

(b) The privacy of neighboring properties shall not be unduly compromised;

(c) The level of noise in the neighborhood shall not be unduly increased;

(d) The use and enjoyment of neighboring properties shall not be unduly compromised;

(e) No trees which would otherwise be protected by this title or other District of Columbia regulation, shall be damaged or removed; and

(f) The general scale and pattern of buildings on the subject street frontage and the neighborhood shall be maintained consistent with the development standards of this title.

304.4 For building permits that are authorized by an approved order of the Zoning Commission or the Board of Zoning Adjustment, the Zoning Administrator is authorized to permit the minor modifications listed in Subtitle A § 304.5 if the Zoning Administrator determines that the proposed modification is consistent with the intent of the Zoning Commission or Board of Zoning Adjustment in approving the application.

304.5 The following minor deviations to approved plans shall be permitted unless the Zoning Commission or the Board of Zoning Adjustment have already granted modifications or variances for the same area of relief:

(a) Deviations not to exceed two percent (2%) in percentage of lot occupancy, or gross floor area of any building that is the direct result from structural or building code requirements;

(b) Deviations not to exceed two percent (2%) in the number of residential units, hotel rooms, institutional rooms, or gross floor area to be used for commercial or accessory uses within the approved square footage;

(c) Deviations not to exceed two percent (2%) in the number of parking or loading spaces; and

(d) The relocation of any building within five feet (5 ft.) of its approved location, for reasons of unforeseen subsoil conditions or adverse topography.

304.6 For building permits that are authorized by an approved order of the Zoning Commission, the Zoning Administrator shall report to the Zoning Commission any modification approved under Subtitle A § 304.5. No modified building permit shall be issued for forty-five (45) days after a report is sent to the Zoning Commission. If prior to the expiration of this time period the Zoning Commission decides that the modification exceeded the scope of a minor modification, the Zoning Administrator shall not approve the building permit, but shall instruct the applicant to seek a modification pursuant to the appropriate procedures of this title.

304.7 No building permit that requires the approval of a minor modification may be issued during a forty-five (45) day period that begins on the date of a report made pursuant to Subtitle Z unless the Zoning Commission advises the Zoning Administrator that it concurs that the modification is minor.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

305 PENALTIES

305.1 As provided in § 10 of the Zoning Act, the owner or person in charge of or maintaining any building or land, or any other person who erects, constructs, reconstructs, alters, converts, maintains, or uses any building or structure, or part of a building or structure, or land in violation of the provisions of this title shall, upon conviction for that violation, be punished by a fine of not more than one hundred dollars ($100) per day for each and every day the violation continues.

305.2 The Office of the Attorney General of the District of Columbia, or any neighboring property owner or occupant who would be specially damaged by any violation of this title, may, in addition to all other remedies provided by law, institute injunction or other appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate a violation; or to prevent the occupancy of the buildings, structure, or land.

305.3 Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of these sections, pursuant to Chapter 18 of Title 2 of the District of Columbia Official Code.

CHAPTER 4 OTHER AUTHORITIES

400 ARCHITECTURAL REVIEW BY COMMISSION OF FINE ARTS

400.1 In addition to all provisions of this title, any building or structure erected after May 12, 1958, within the area of jurisdiction of the Shipstead-Luce Act, approved May 16, 1930 (46 Stat. 366, as amended; D.C. Official Code § 6-611.01), or within the area of jurisdiction of the Old Georgetown Act, approved September 22, 1950 (64 Stat. 903, as amended; D.C. Official Code §§ 1201 through 1207), shall be subject to the architectural review established by those acts and administered by the Commission of Fine Arts.

401 COMPREHENSIVE PLAN OF THE NATIONAL CAPITAL

401.1 The Zoning Commission is charged with preparing, adopting, and subsequently amending the Zoning Regulations and Zoning Map in a means not inconsistent with the Comprehensive Plan for the National Capital area.

402 CONGRESSIONAL LIMITATION ON BUILDING HEIGHTS

402.1 In addition to any controls established in this title, all buildings or other structures shall comply with the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910, as amended (36 Stat. 452; D.C. Official Code §§ 6-601.01 through 6-601.09).

403 HEIGHTS OF BUILDINGS ADJACENT TO PUBLIC BUILDINGS

403.1 In addition to the requirements of this title, buildings or structures adjacent to public buildings shall be subject to the "Schedule of Heights of Buildings Adjacent to Public Buildings" as adopted by the Commissioners of the District of Columbia in conformity with § 5 of the Height Act, as amended by the Schedule of Heights of Building Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-234; 46 DCR 4147 (May 7, 1999), as amended.)

404 PENNSYLVANIA AVENUE PLAN

404.1 In addition to any controls established in this title, any building or structure within the boundaries of the Pennsylvania Avenue Sub-Area delineated in Subtitle I shall be subject to the Pennsylvania Plan [Pennsylvania Avenue Development Corporation (PADC) Plan, October 1974, as amended.]

TITLE 11 - ZONING

SUBTITLE B DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES

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CHAPTER 1 DEFINITIONS

100 DEFINITIONS

100.1 For the purpose of this title, the following definitions shall not be held to modify or affect in any way the legal interpretations of these terms or words where used in other regulations:

(a) Words in the present tense shall include the future tense;

(b) Words in the singular number shall include the plural number, and words in the plural number shall include the singular number;

(c) The word "lot" shall include the words "plot" and "parcel";

(d) The word "shall" is mandatory and not discretionary;

(e) The word "person" shall include a corporation, partnership, and government as well as an individual;

(f) The words "occupied" and "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied, offered for occupancy"; and

(g) Words not defined in this section shall have the meanings given in Webster's Unabridged Dictionary.

100.2 When used in this title, the following terms and phrases shall have the meanings ascribed:

1958 Zoning Regulations: The regulations that were originally adopted and became effective at 12:01 a.m., May 12, 1958, as amended.

2016 Zoning Regulations: The current regulations adopted through the publication of a notice of final rulemaking published in the *D.C. Register* on March 2, 2016 and which became effective at 12:01 a.m., September 6, 2016, as those regulations may thereafter be amended. See Subtitle A § 101.

Accessory Apartment: A dwelling unit that is secondary to the principal single household dwelling unit in terms of gross floor area, intensity of use, and physical character, but which has kitchen and bath facilities separate from the principal dwelling and may have a separate entrance.

Adult day treatment facility: A building or part of a building used for non-residential programs operated for the purpose of providing medically supervised

day treatment services for adults with a developmental disability or mental disorder, totaling six (6) or more persons who are present for fewer than twenty-four (24) hours per day. An adult day treatment facility includes the following accessory uses: counseling, education, training, health, and social services for the person or persons with legal charge of individuals attending the center, including, but not limited to, any parent, spouse, sibling, child, or legal guardian of such individuals. This definition does not encompass facilities that offer drug or alcohol abuse rehabilitation services. For the purposes of this definition, the following sub-definitions apply:

Mental disorder - an abnormal mental condition in an individual who requires a comprehensive and relatively intensive range of mental health services in a therapeutic and structured environment if he or she is to remain in the community or if he or she is to move from twenty-four (24) hour institutional care to the community.

Developmental disability - a severe, chronic disability of a person that is attributable to a mental or physical impairment, or both, that is manifested before the person attains the age of twenty-two (22) years and is likely to continue indefinitely. The impairment causes substantial functional limitations in three (3) or more areas of major life activity:

(a) Self-care;

(b) Receptive and expressive language;

(c) Learning;

(d) Mobility;

(e) Self-direction;

(f) Capacity for independent living; or

(g) Economic sufficiency.

A developmental disability reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment, or other service, which are life-long or of extended duration, and are individually planned and coordinated.

Advisory Neighborhood Commission (ANC): A duly elected body established in accordance with § 738 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774, 824, as amended; D.C. Official Code § 1-207.38).

Affected Advisory Neighborhood Commission: The ANC for the area within which the property that is the subject of a Zoning Commission or Board of Zoning Adjustment application or appeal is located, except that if the subject property is located on a street that serves as a boundary line between two ANCs, then the term "affected ANC" means both ANCs.

Affordable Housing: Housing where costs, including utilities and any mandatory fees for rental or mortgage principle and interest, taxes, insurance and any mandatory fees, do not exceed thirty percent (30%) of the targeted household income ranges.

Airspace Development: Development above or below streets or alleys.

Alley: A public way designated as an alley in the records of the Surveyor of the District of Columbia. An alley is not a street for the purposes of this title.

Alley Lot: See Lot, Alley.

Alterations, Structural: Any change in the permanent, physical members of a building or other structure, such as bearing walls or partitions, columns, joists, rafters, beams, or girders.

Angular Plane: A plane, based on a defined angle, that a building façade may be set up to, or behind.

Animal Boarding: Any premises, other than a veterinary hospital, pet shop, or pet grooming establishment, used as a commercial establishment for the overnight boarding and/or recurring daily care of animals for a fee. Any pet grooming establishment that permits ten (10) or more animals on the premises at a time, or that permits the overnight stay of animals, is considered an animal boarding use.

Animal Shelter: Any premises that houses and feeds stray or abandoned animals without a fee and is operated by a non-profit organization or governmental agency.

Antenna: A device used to transmit or receive communications signals. This term encompasses transmitting and receiving elements, and rotating or other directional mechanism.

Antenna Tower: A lattice-type structure, guyed or self-supporting, used to support antennas for broadcasting, transmission, reception, or other utility equipment. Such structures shall not be deemed ground-mounted antennas as that term is used in this chapter.

Antenna, Building-mounted: Any antenna and its necessary support structure, not including an antenna tower or monopole, that is attached to the walls of, or

integrated into, a building, church steeple, cooling tower, elevator bulkhead, parapet, penthouse, fire tower, tank, water tower, or other similar structure.

Antenna, Ground-mounted: Any freestanding antenna with its base placed directly on the ground. Ground does not include artificially elevated terrain such as berms or planter boxes but may include graded lawns, terraced landscapes that are formed from the natural grade, and at-grade patios.

Antenna, Roof-mounted: Any antenna and its necessary support structure, not including an antenna tower or monopole, that is attached to the roof of a building and which does not fall within the definition of a building-mounted antenna.

Apartment: One (1) or more habitable rooms with kitchen and bathroom facilities exclusively for the use of and under the control of the occupants of those rooms. Control of the apartment may be by rental agreement or ownership.

Apartment House: Any building or part of a building in which there are three (3) or more apartments, providing accommodation on a monthly or longer basis.

Arcade, open: A continuous area, located along the perimeter of a building, designed for pedestrian uses, and which adjoins a street for its entire length; and, except for structural piers, columns, or arches, is open to the street. See also: Subtitle B, Chapter 3.

Areaway: A subsurface space adjacent to a building open at the top or protected at the top by a grating or guard that includes window wells and passageways accessing basement/cellar doors.

Art Center: A multifunctional arts use that comprises two (2) or more distinct arts design and creation uses integrated under single management.

Art Exhibition Area: A building lobby, part of a lobby, or other publicly accessible space on the basement or first or second floors of a building or an outdoor public area on private property, which space is designed and used for the public display and sale of works of art.

Art Gallery: an establishment that derives more than fifty percent (50%) of its income from the display and sale of objects of art.

Art Incubator: An arts use that:

(a) Is organized under single management with a single certificate of occupancy;

(b) Has as its core mission the provision of work space at a reduced cost for aspiring artists or arts organizations;

(c) Provides work space that is either communal or subdivided into any number of areas;

(d) May include the following uses: artist studio, administrative offices of arts organizations, legitimate theater, or media studio; and

(e) Does not have any residential uses.

When located in any residential zone pursuant to Subtitle A § 101.8(a), the art incubator may have up to six (6) public sales per year for art produced in the incubator, and up to six (6) performances per year of dramatic or performance art produced in the incubator.

Artist Live-Work Space: A dwelling unit or building in which an artist or artists reside and work in an artist studio use in compliance with the requirements of one (1) of the following categories:

(a) Single artist live-work space: A single dwelling unit occupied by an artist to both live and work, where a minimum of thirty percent (30%) of the gross floor area of the unit is used for an artist studio use by the artist residing therein. The minimum size of a live-work unit shall be one thousand square feet (1,000 sq. ft.). In residential zones the artist may sell art produced on site as a clearly incidental part of the live-work use; or

(b) Multi-artist live-work space: A building or part of a building with two (2) or more dwelling units, with all units inhabited by artists whose primary studio is in the same structure or on the same property, but not in their unit. The studio space may be communal or may be subdivided into any number of areas.

Artist Studio: A place of work of one (1) or more persons who are engaged actively and, either gainfully or as a vocation, work in the following:

(a) The fine arts, including but not limited to crafts, painting, printmaking, or sculpturing;

(b) The performing and visual arts, including but not limited to dance, choreography, photography, or filmmaking;

(c) Any use from the arts design and creation use category;

(d) The composition of music; or

(e) The recording and/or production of music, video, or other media form.

In residential zones the artist may sell art produced on site as a clearly incidental part of the studio use.

Ballpark: The building and use authorized by Zoning Commission Order No. 06-22.

Basement: That portion of a story partly below grade, the ceiling of which is four feet (4 ft.) or more above the adjacent finished grade.

Bicycle Parking: See Parking Space, Bicycle.

Blockface: The entire front lot line of all building façades of a square between two (2) streets.

Board of Zoning Adjustment (Board): An independent quasi-judicial body empowered to grant relief from the strict application of the Zoning Regulations (variances), approve certain uses of land (special exceptions), and hear zoning appeals.

Boarding House: A building or part thereof where, for compensation, lodging and meals are provided to three (3) or more guests on a monthly or longer basis.

Boathouse: A building or structure designed and used to store and provide water access for non-motorized watercraft, including racing shells, kayaks, canoes, sailboats, rowboats, and similar boats.

Building: A structure requiring permanent placement on the ground that has one (1) or more floors and a roof supported by columns or walls. When separated from the ground up or from the lowest floor up, each portion shall be deemed a separate building, except as provided elsewhere in this title. The existence of communication between separate portions of a structure below the main floor shall not be construed as making the structure one (1) building.

Building, Accessory: A subordinate building located on the same lot as the principal building, the use of which is incidental to the use of the principal building.

Building Area: The maximum horizontal projected area of a principal building and its accessory buildings. Except for outside balconies, this term shall not include any projections into open spaces authorized elsewhere in this title, nor shall it include portions of a building that do not extend above the level of the main floor of the main building, if placed so as not to obstruct light and ventilation of the main building or of buildings on adjoining property.

Building area shall not include: Building components or appurtenances dedicated to the environmental sustainability of the building; cornices and eaves; sills, leaders, belt courses, and similar ornamental or structural features; awnings, serving a window, porch, deck or door; uncovered stairs, landings, and wheelchair ramps that serve the main floor; and chimneys, smokestacks, or flues.

Building, Attached: A building that abuts or shares walls on both side lot lines with other buildings on adjoining lots.

Building, Detached: A freestanding building that does not abut any other building and where all sides of the building are surrounded by yards or open areas within the lot.

Building Envelope: The maximum three (3) dimensional space on a lot in which a building may be built as limited by the applicable development standards and other relevant limits and conditions of this Title.

Building Façade: An exterior vertical plane, face, or side of a building, exclusive of any permitted projections.

Building, Height of: In other than R, RF, RA, RC-1, CG-1, and D-1 zones, the vertical distance measured from the level of the curb, opposite the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district; in Residential (R) zones the vertical distance measured at the existing grade at the midpoint of the building façade of the principal building that is closest to a street lot line to a point designated in the zone district. Berms or other forms of artificial landscaping shall not be included in measuring building height.

The term "curb" shall refer to a curb at grade. When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, the height of a building shall be measured using Rules of Measurement for Height (Subtitle B § 308).

Building Height Measuring Point (BHMP): The point used to measure building heights in R, RF, and RA zones.

Building Line: A line beyond which property owners have no legal or vested right to extend a building or any part of the building without special permission and approval of the proper authorities; ordinarily a line of demarcation between public and private property, but also applied to building restriction lines, when recorded on the records of the Surveyor of the District of Columbia.

Building, Principal: The building in which the primary use of the lot is conducted.

Building, Semi-detached: A building that abuts or shares one (1) wall, on a side lot line, with another building on an adjoining lot and where the remaining sides of the building are surrounded by open areas or street lot lines.

Building, Separate: Structures that are separated from the ground up by common division walls or contain multiple sections separated horizontally, such as wings or additions, are separate buildings. Structures or sections shall be considered

parts of a single building if they are joined by an enclosed connection that is fully above grade, is heated and artificially lit; and either a common space shared by users of all portions of the building, such as a lobby or recreation room, or space that is designed and used to provide free and unrestricted passage between separate portions of the building, such as an unrestricted doorway or walkway.

Build-to Line: A front setback line that the front façade of the principal building of the lot must abut.

Bulkhead: A retaining wall or protective structure along a shoreline whose primary purpose is to stabilize, hold, or prevent earth or backfill from eroding or washing away. For purposes of this definition, the term bulkhead does not differentiate between and includes bulkheads, seawalls, and revetments.

Car Wash: A structure or portion of a structure, the principal use of which is the washing of automobiles or other motor vehicles with the use of a chain or other conveyor and blower or steam cleaning device.

Caregiver: An individual who is responsible for the supervision and administration of a child development home, expanded child development home, or child/elderly development center.

Car-share Organization: A membership based service with a valid business license providing shared vehicles available twenty-four (24) hours a day, seven (7) days a week, at unattended self-serve locations. Vehicles are provided without restriction at hourly rates that include fuel, insurance, and maintenance primarily for shorter time and shorter distance trips.

Car-sharing Space: A parking space that is designated for the parking of a car-sharing vehicle.

Car-sharing Vehicle: Any vehicle available to multiple users who are required to join a membership organization in order to reserve and use such a vehicle, and for which they are charged based on actual use as determined by time and/or mileage.

Caterer, Catering Establishment: A person or business that prepares and provides food, beverages, or both, along with the necessary accessories for serving these products, for consumption. The food and beverages are provided for events that are located off the business establishment's premises. Any establishment that receives more than seventy-five percent (75%) of its sales from orders placed less than three (3) hours prior to delivery or pick-up will not be considered a catering establishment.

Cellar: That portion of a story, the ceiling of which is less than four feet (4 ft.) above the adjacent finished grade.

Central Area: The area included within the combined boundaries of the Urban Renewal Plan for the Downtown Urban Renewal Area and the Urban Renewal Plan for the Shaw School Urban Renewal Area, as approved and modified periodically by the National Capital Planning Commission and the Council of the District of Columbia.

Central Employment Area (CEA): The core area of the District of Columbia where the greatest concentration of employment in the city and region is encouraged. The geographic boundaries of the CEA are detailed in the Comprehensive Plan.

Chancery: The principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), including the site and any building on such site that is used for such purposes.

Child Development Center: A building or part of a building, other than a child development home, used for the non-residential licensed care, education, counseling, or training of individuals under the age of fifteen (15) years of age and, totaling seven (7) or more persons, who are not related by blood or marriage to the caregiver and who are present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as child care centers, pre-schools, nursery schools, before-and-after school programs, and similar programs and facilities. A child development center includes the following accessory uses: counseling, education, training, and health and social services for the person or persons with legal charge of individuals attending the center, including, but not limited to, any parent, spouse, sibling, child, or legal guardian of such individuals.

Child Development Home: A dwelling unit used in part for the licensed care, education, or training of no more than six (6) individuals fifteen (15) years of age or less including all individuals age four (4) and younger who reside in the dwelling unit. Those individuals receiving care, education, or training who are not related by blood, marriage, or adoption to the caregiver shall be present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as a child care center, day (2012care center, pre-school, nursery school, before-and-after school programs, and similar programs and facilities.

Clinic: A building or part of a building in which members of the medical or dental professions are associated for the purpose of conducting a joint practice of the professions. Each clinic shall contain a diagnostic center and, in addition, may contain research, educational, minor surgical, or treatment facilities; provided that all the facilities are limited to the treatment and care of out-patients.

The term "clinic" shall be limited to those buildings in which the joint practice of medical or dental professions is conducted in such a manner that all fees for services rendered are established by and paid to a common business office

without direct payment of the fees to individual practitioners, and shall not include a building in which the separate and individual practice of the above professions is conducted.

Club, Private: A building and facilities or premises used or operated by an organization or association for some common avocational purpose such as, but not limited to, a fraternal, social, educational, or recreational purpose; provided, that the organization or association shall be a non-profit corporation and registered with the U.S. Internal Revenue Service; goods, services, food, and beverages shall be sold on the premises only to members and their guests; and office space and activities shall be limited to that necessary and customarily incidental to maintaining the membership and financial records of the organization.

Collocation: The use of a single mount, tower, monopole, or site by more than one (1) antenna or telecommunications service provider.

Commission: The Zoning Commission for the District of Columbia, unless otherwise noted.

Community Centers, Private: A building, park, playground, swimming pool, or athletic field operated by a local community organization or association.

Community Service Use: A not-for-profit use established primarily to benefit and serve the population of the community in which it is located.

Comprehensive Plan: The Comprehensive Plan for the National Capital adopted pursuant to § 4(a) of the National Capital Planning Act of 1952, approved July 10, 1952 (66 Stat. 774, 781, 785, as amended; D.C. Official Code §§ 2-1002(a)), and §§ 203 and 423 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 779, 792; D.C. Official Code §§ 1-204.23, 2-1002(a)).

Continuing Care Retirement Community: A building or group of buildings providing a continuity of residential occupancy and health care for elderly persons. This facility includes dwelling units for independent living, assisted living facilities, plus a skilled nursing care facility of a suitable size to provide treatment or care of the residents; it may include ancillary facilities for the further enjoyment, service or care of the residents. The facility is restricted to persons sixty (60) years of age or older or couples where either the husband or wife is sixty (60) years of age or older.

Corner Store: A limited commercial and service use in residential rowhouse zones, oriented to serve the immediate neighborhood.

Cottage Food Business: A business that:

(a) Produces or packages cottage food products in a residential kitchen;

(b) Sells the cottage food products in accordance with the Cottage Food Act and regulations adopted by the Department of Health; and

(c) Has annual revenues from the sale of cottage food products in an amount not exceeding $25,000.

Cottage Food Product: A food product made in compliance with the Cottage Food Act effective January 25, 2014 (D.C. Law 20-63; D.C. Official Code §§ 7-749.01 *et seq*.) and that is sold at a farmer's market or other public venues.

Court: An unoccupied space, not a court niche, open to the sky, on the same lot with a building, which is bounded on two (2) or more sides by the exterior walls of the building or by two (2) or more exterior walls, lot lines, or yards. A court may also be bounded by a single curved wall of a building

Court, Closed: A court surrounded on all sides by the exterior walls of a building, or by exterior walls of a building and side or rear lot lines, or by alley lines where the alley is less than ten feet (10 ft.) in width.

Court, Height of: The vertical distance from the lowest level of the court to the highest point of any bounding wall.

Court, Length of: The mean horizontal distance between the open and closed end of an open court or the greater horizontal dimension of a closed court.

Court Niche: an indentation, recess, or decorative architectural treatment of the exterior wall of a building, not a court, which opens onto a street, yard, alley, or court.

Court Niche, Depth of: the greatest distance between the sides of the court niche, measured perpendicular to the line delineating the width of court niche.

Court Niche, Width of: the distance between the two (2) points created by the intersection of the sides of the court niche and the sides of the court, yard, street, or alley it abuts.

Court, Open: A court opening onto a street, yard, or an alley not less than ten feet (10 ft.) wide.

Court, Width of: The minimum horizontal dimension substantially parallel with the open end of an open court or the lesser horizontal dimension of a closed court; or, in the case of a non-rectangular court, the diameter of the largest circle that may be inscribed in a horizontal plane within the court.

Dinner Theater: A restaurant with a stage or performing area where the main activity is the serving of dinner and, following dinner, the performance of a play or musical theater.

Director: The Director of the Office of Zoning or such successor official as shall be designated to be the supervisor of the full-time administrative staff of the Commission and Board, unless otherwise noted.

District of Columbia Construction Codes: The District of Columbia Construction Codes and District of Columbia Construction Codes Supplement as those terms are further described at 12 DCMR A § 101.1.

Driver's License Road Test Facility: A building and associated paved area used by the District of Columbia Department of Motor Vehicles in connection with road tests or other tests of driving ability given to applicants for drivers' licenses or endorsements.

Drive-Through: A system designed to permit customers of an establishment to obtain goods or services by driving through the property and conducting the transaction while the customer remains within a motor vehicle. The system has two (2) major parts: a vehicular queuing lane or lanes, and one (1) or more service locations where customers place orders or receive services or both. No part of this definition shall be construed to apply to a gasoline service station.

Dwelling, Multiple: A building containing three (3) or more dwelling units or rooming units, or any combination of these units totaling three (3) or more.

Dwelling Unit: One (1) or more habitable rooms comprising complete independent living facilities for one (1) or more persons, and including within those rooms permanent provisions for living, sleeping, eating, cooking, and sanitation. A dwelling unit is intended for a single household.

Dwelling Unit, Principal: The primary residential structure on a lot.

El: An uncovered, unoccupied space, bounded by a side lot line and two (2) exterior walls of a building.

Elderly Day Care Home: A dwelling unit used in part for the care, education, recreation, or training of no more than five (5) elderly individuals who are not related by blood or marriage to the caregiver and who are present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as senior care centers, elder care programs, and similar programs and facilities.

Elderly Development Center: A building or part of a building, other than an elderly day care home, used for the non-residential care of individuals age sixty-five (65) or older, totaling seven (7) or more persons, who are not related by blood or marriage to the caregiver and who are present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as senior care centers, elder care programs, and similar programs and facilities. An elderly development center includes the following accessory uses: counseling; education, training, and health and social services for the person or persons with legal charge of individuals attending the center, including, but not limited to, any parent, spouse, sibling, child, or legal guardian of such individuals.

Electronic Equipment Facility (EEF): A facility or space used primarily for or intended to be used primarily for the housing, operation, and/or co-location of computer equipment that provides: (a) electronic data switching, (b) transmission, and/or (c) telecommunication functions, whether inside or outside the facility. The term "Electronic Equipment Facility" includes, but is not limited to, Data Center, Server Farm, Co-Location Facility, Telecommunications Switching Center, Tech Hotel, Telco Hotel, and Telecommunications Central Office.

Embassy: The official residence of an ambassador or other chief of a diplomatic mission, or that portion of a combined chancery/embassy devoted to use as such official residence.

Emergency Shelter: A facility providing temporary housing for one (1) or more individuals who are otherwise homeless as that arrangement is defined in the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code §§ 4-751.01 *et seq.*); an emergency shelter use may also provide ancillary services such as counseling, vocational training, or similar social and career assistance.

Enclosed Pedestrian Space: An area located within a building designed for pedestrian use and enclosed on all sides that may be covered by a roof of a transparent material that exposes the area to natural light.

Equipment Cabinet or Shelter: An enclosure housing only equipment related to the operation of an antenna located at the site and connected to the antenna by cable.

Expanded Child Development Home: a dwelling unit used in part for the licensed care, education, or training for more than six (6) individuals, up to a maximum of twelve (12) individuals fifteen (15) years of age or less including all individuals age four (4) and younger who reside in the dwelling unit, provided that no more than six (6) of the individuals may be under two (2) years of age. Those individuals receiving care, education, or training who are not related by blood, marriage, or adoption to the caregiver shall be present for less than twenty-four

(24) hours per day. This definition encompasses facilities generally known as a child care.

Farmers Market: A temporary market, open to the public for no charge, held in an open area where groups of individual sellers offer for sale to the public such items as agricultural produce, seasonal fruits and vegetables, fresh flowers, meats, eggs, and honey that they produce or grow; items for sale may also include items made from the agricultural produce such as baked goods, jams, jelly, and sausages; sales are customarily made from temporary booths or vehicles located on site. The market may operate daily, intermittently throughout the week, or seasonally.

Fast Food, Drive-through: A fast food restaurant that includes a drive-through and may not provide customer seating.

Fast Food, Restaurant: A business, other than a prepared food shop, where food is prepared and served very quickly; and where the food is typically made of preheated or precooked ingredients, served to the customer in a packaged form for carry-out/take-away, although it may be eaten on site.

Characteristics of a fast food establishment may include:

(a) Foods that are prepared by production-line techniques;

(b) Foods that are standardized foodstuffs shipped to a franchised establishment from central locations;

(c) The establishment includes trash receptacles located in the dining area for self-bussing of tables;

(d) Seating for customers; and

(e) Food served on disposable tableware.

An establishment meeting this definition shall not be deemed to constitute any other use permitted under the authority of these regulations, except that a restaurant, grocery store, movie theater, or other use providing carry out sales that is clearly subordinate to its principal use shall not be deemed a fast-food establishment.

Firearm: a gun, pistol, or any weapon capable of firing a projectile and using an explosive charge as a propellant.

Firearms Retail Sales Establishment: An establishment engaged in the sale, lease, or purchase of firearms or ammunition. If an establishment is a firearms retail sales establishment as defined here, it shall not be deemed to constitute any other use permitted under the authority of this title.

Fire Department: the Fire and Emergency Medical Services Department of the District of Columbia.

Fire Station: A building and associated land used by the Fire Department to house personnel and equipment in connection with the provision of fire, rescue, emergency medical, hazardous materials response, and other types of emergency services throughout the District- of Columbia, and includes the harbor facility.

Flat: A dwelling used exclusively as a residence for two (2) families living independently of each other.

Floating Home: A sailboat, motorboat, or other floating structure that is designed and built to be used, or is modified to be used, as a waterborne residential dwelling, is dependent for utilities upon a utility linkage to a source originating on shore, and in which the tenant or owner sleeps overnight an average of fifteen (15) days per month.

Floor Area Ratio (FAR): The ratio of the total gross floor area of a building to the area of its lot; determined by dividing the gross floor area of all buildings on a lot by the area of that lot. See Also: Subtitle B §§ 304 and 305.

Gross Floor Area (GFA): The sum of the gross horizontal areas of the several floors of all buildings on a lot, measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings. See Also: Subtitle B §§ 304 and 305.

GFA shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses; attic space (whether or not a floor has actually been laid, providing structural headroom of six feet, six inches (6 ft., 6 in.), or more); interior balconies; and mezzanines.

GFA shall not include cellars, exterior balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building, all projections beyond the lot line that may be allowed by other Municipal codes, vent shafts, and pipe chase shafts above the ground floor, atriums above the ground floor, ramps on the ground floor leading down to areas of parking on a lower level; and in residential zones, the first floor or basement area designed and used for parking or recreation spaces provided that not more than fifty percent (50%) of the perimeter of that space may be comprised of columns, piers, walls, or windows, or similarly enclosed.

Floor, Ground: The floor level nearest to and above the adjacent finished grade.

Food Delivery Service: A restaurant, prepared food shop, or fast food establishment, in which the principal use is production of prepared food for

delivery to customers located off the business premises. Seating and tables for customers may or may not be provided for on-premises consumption, but if present are clearly subordinate to the principal use of preparing food for delivery to off-site customers. Any establishment that derives more than seventy-five percent (75%) of its sales from delivery orders will be considered a food delivery service in all cases. This definition does not include catering establishments.

Gallery, Display: An establishment that displays and may sell art, but that does not derive more than fifty percent (50%) of its income from the display and sale of objects of art.

Gallery, Retail: An establishment that derives more than fifty percent (50%) of its income from the display and sale of objects of art.

Garage, Automated Parking: A building or other structure, or part thereof, in which parking is accomplished by means of shuttles, platforms, dollies, or other mechanisms that move vehicles around and where such movement is controlled by computers. The facility may be self-service or it may be staffed to accept payment or observe operations where vehicles enter or exit the automated environment. May also be a parking garage or public storage garage.

Garage, Private: A building or other structure, or part of a building or structure, not exceeding nine hundred square feet (900 sq. ft.) in area, used for the parking of motor vehicles and having no repair or service facilities other than a means by which to charge batteries or an electric vehicle.

Garage, Parking: A building or other structure, or part of a building or structure, over nine hundred square feet (900 sq. ft.) in area, used for the parking of one (1) or more motor vehicles and where any services are minor and incidental such as charging a battery, washing or detailing a vehicle, tire inflation, replacing bulbs and wiper blades, and an electric vehicle charging station.

Garage, Public Storage: a building or other structure, or part of a building or structure, in which any repair, greasing, washing, or similar services are incidental to its primary use for the parking of motor vehicles.

Garage, Repair: A building or other structure, or part of a building or structure, with facilities for the repair of motor vehicles, including body and fender repair, painting, rebuilding, reconditioning, upholstering, equipping, or other motor vehicle maintenance or repair.

Gasoline Service Station: An area of land, including any structures on the area, used for the retail sale of motor fuel and lubricants and incidental services such as lubrication and hand-washing of motor vehicles, and the sale, installation, or minor repair of tires, batteries, or other automobile accessories. The term gasoline service station shall not include a car wash or a repair garage.

Glass, Clear and/or Low-Emissivity: Glass with a visible light transmission rating of at least seventy percent (70%) and an outdoor visible light reflectance rating of no greater than seventeen percent (17%).

Grade, Finished: The elevation of the ground directly abutting the perimeter of a building or structure.

Grade, Natural: The undisturbed elevation of the ground of a lot prior to human intervention; or where there are existing improvements on a lot, the established elevation of the ground, exclusive of the improvements or adjustments to the grade made in the two (2) years prior to applying for a building permit; natural grade may not include manually constructed berms or other forms of artificial landscaping.

Green Area Ratio (GAR): Ratio of the weighted value of landscape elements to lot area See Also: Subtitle C, Chapter 6.

Grocery Store: A use whose primary business is the sale of fresh produce and food products. At least fifty percent (50%) of customer-accessible sales and display area is used for the sale of a general line of food products intended for home preparation and consumption, and at least thirty percent (30%) of retail space is for perishable goods that include dairy, fresh produce, fresh meats, poultry, fish, and frozen foods. Groceries represent the majority of the sales in a grocery store although there may be accessory uses such as prepared food and drink, pharmaceuticals, and bank services.

Group Instruction Center or Studio: An establishment that principally offers group instruction in the performing arts, the martial arts, physical exercise, or yoga.

Habitable Room: An undivided enclosed space used for living, sleeping, or kitchen facilities. The term "habitable room" shall not include attics, cellars, corridors, hallways, laundries, serving or storage pantries, bathrooms, or similar space; neither shall it include mechanically ventilated interior kitchens less than one hundred square feet (100 sq. ft.) in area, nor kitchens in commercial establishments.

Health Care Facility: A facility that meets the definition for and is licensed under the District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 32-1301 *et seq*.)

Height Act: The Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910, as amended (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09).

Height, Floor-to-Ceiling Clear: The vertical distance measured from the finished floor to the underside of the finished ceiling. (See Subtitle B § 328.)

Historic District: An area listed as an historic district in the D.C. Inventory of Historic Sites, or which the State Historic Preservation Officer has nominated or issued a written determination to nominate to the National Register of Historic Places after a public hearing before the Historic Preservation Review Board.

Historic Landmark: A building, structure, object or feature, and its site, or a site that is listed in the D.C. Inventory of Historic Sites, or for which an application for listing is pending with the Historic Preservation Review Board (provided the statutory time period for consideration of the application has not expired).

Historic Landmark and Historic District Protection Act of 1978: An Act adopted by the Council of the District of Columbia effective March 3, 1979, as amended (D.C. Law 2-144; D.C. Official Code §§ 6-1101 to 6-1115).

Historic Resource: A historic landmark or a building, structure, object or feature, and its site, that contributes to the character of a historic district, as determined in accordance with the Historic Landmark and Historic District Protection Act of 1978.

Home Occupation: An accessory use, including a business, profession, or other economic activity, which is conducted full-time or part-time in a dwelling unit or its accessory building or accessory structure that serves as the principal residence of the practitioner.

Home Sales Party: a gathering that is held at a dwelling of any kind for the purpose of selling or distributing goods or services.

Hospice: A program of in-house, outpatient, or inpatient medical nursing, counseling, bereavement, and other palliative and supportive services to terminally ill individuals and their families.

Hotel: A building or part of a building in which not less than thirty (30) habitable rooms or suites are reserved primarily for transient guests who rent the rooms or suites on a daily basis and where meals, prepared in a kitchen on the premises by the management or a concessionaire of the management, may be eaten in a dining room accommodating simultaneously not less than thirty (30) persons. The dining room shall be internally accessible from the lobby. The term "hotel" shall not be interpreted to include an apartment house, rooming house, boarding house, or private club. All areas within a hotel shall be included in one (1) of the following categories:

(a) Commercial adjuncts - retail and service establishments customarily incidental and subordinate to hotel use, such as restaurant, dining room,

cocktail lounge, coffee shop, dry cleaning, laundry, pressing or tailoring establishment, florist shop, barber shop, beauty parlor, cigar or news stand, and other similar uses;

(b) Exhibit space - floor area within a hotel primarily designed for the display and storage of exhibits for conferences, trade fairs, and similar group events;

(c) Function room - a room within a hotel used primarily to accommodate gatherings of hotel guests and visitors, such as meetings, banquets, and other group events;

(d) Guestroom areas - floor area within a hotel devoted to guestrooms or suites, including individual bathrooms, entrance foyers, corridors, elevators, stairs, floor pantries, and other space directly supportive of guestrooms. The main lobby, front desk, and hotel administrative offices are also included in guestroom areas for purposes of pro-rating floor area between residential and nonresidential uses in applicable zones; or

(e) Service areas - floor area within a hotel devoted to mechanical services and storage supportive of the hotel as a total entity, including boiler room, mechanical platforms, electrical switchboard, workshops and maintenance areas, storage areas, employee facilities (locker rooms, canteen, and engineer's office), and similar uses.

Household: Shall be defined as one (1) of the following:

(a) One (1) family related by blood, marriage, adoption, or foster agreement;

(b) Not more than six (6) persons who are not so related, living together as a single house-keeping unit;

(c) A religious community having not more than fifteen (15) members; or

(d) A residential facility providing housing for up to six (6) persons with disabilities and two (2) caregivers. For purposes of this subsection, a "disability" means, with respect to a person, a physical or mental impairment which substantially limits one (1) or more of such person's major life activities, or a record of having, or being regarded as having, such an impairment, but such item does not include current, illegal use of a controlled substance.

Housing Trust Fund: Either the fund established under § 3 of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2802 (formerly codified at D.C. Code § 45-3102 (1996 Repl.))); or an organization that qualifies as a nonprofit organization under § 501(c)(3) of the Internal Revenue Code of 1986, approved October 22, 1986 (68A Stat. 163; 26 U.S.C. § 501(c)(3)), and that also:

(a) Exists primarily for the purpose of assisting in the production of affordable housing units;

(b) Operates a trust fund that disburses money for affordable housing;

(c) Receives applications for funds directly from developers of affordable housing;

(d) Has adopted criteria for selection of projects and allocation of funds among various types of affordable housing developments; and

(e) Has been certified by the Director of the D.C. Department of Housing and Community Development as a qualifying nonprofit organization that also complies with the requirements of (a) through (d) of this definition.

Inclusionary Unit: A dwelling unit set aside for sale or rental to a targeted household required by Subtitle C, Chapter 10.

Inclusionary Zoning Act (IZ Act): The Inclusionary Zoning Implementation Amendment Act of 2006, effective March 14, 2007(D.C. Law 16-275; D.C. Official Code §§ 6-1041.01 *et seq.*)). References to the IZ Act include any Mayor's Order, agency rule, or other administrative issuance promulgated pursuant to that legislation.

Inn: A building or part of a building in which habitable rooms or suites are reserved primarily for transient guests who rent the rooms or suites on a daily basis. Guestrooms or suites may include kitchens, but central dining, other than breakfast for guests, is not allowed. The term "inn" may be interpreted to include an establishment known as a bed and breakfast, hostel, or tourist home, but shall not be interpreted to include a hotel, motel, private club, rooming house, boarding house, tenement house, or apartment house. For the purposes of this definition, the limitation on central dining does not prohibit an inn from allowing guests to prepare their meals at centrally located cooking facilities and to eat such meals in a central dining area.

Intermediate Materials Recycling Facility: A structure used for the receipt, separation, storage, conversion, baling, and/or processing of paper, metal, glass, plastics, tires, bulk waste, and other non-biodegradable recyclable materials for the purpose of reutilization of the materials. Such facility shall not include storage or processing of biodegradable materials, construction and demolition debris, white goods, and hazardous substances, as defined by the District of Columbia Environmental Policy Act of 1989, effective October 18, 1989 (D.C. Law 8-36; D.C. Official Code § 8-109.02), and the rules and regulations pursuant thereto. The facility shall be limited in operation to baling, briquetting, crushing, compacting, grinding, shredding, and sorting of acceptable materials. The structure shall be fully enclosed by solid walls, exclusive of doors and windows,

and a roof. Doors and windows shall be operative and kept closed except for the coming and going of vehicles and individuals.

International Organization: A public international organization designated as such pursuant to § 288 of the International Organizations Immunities Act, approved December 29, 1995 (59 Stat. 669; 22 U.S.C. §§ 288 - 288f-3), or a public international organization created pursuant to a treaty or other international agreement as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs, and an official mission (other than a United States mission) to such a public international organization, including any real property of such an organization or mission and including the personnel of such an organization or mission.

Large Format Retail: A single retailer or common retail space with a minimum floor space of fifty thousand square feet (50,000 sq. ft.); the use shall include warehouse club stores with or without paid memberships, discount retailers, and similar uses. A large format retailer may include grocery sales as a secondary use but a grocery store shall not be considered a large format retail use.

Legitimate Theater: A building, or a part of a building, that is designed and used for the presentation of live plays and other forms of dramatic performance. The facility typically has a stage or other performing area plus tiers of seats for the audience, or other arrangements for the audience to sit or stand to view the performance.

Loading berth: An off-street space provided for cargo vehicles, when loading and unloading.

Lot: The land bounded by definite lines that, when occupied or to be occupied by a building or structure and accessory buildings, includes the open spaces required under this title. A lot may or may not be the land so recorded on the records of the Surveyor of the District of Columbia.

Lot Lines: The lines bounding a lot as defined in this section.

Lot, Alley: Is either a lot that is recorded on the records of the Surveyor, District of Columbia, that faces or abuts an alley that does not face or abut a street at any point (alley record lot) or a lot that is recorded on the records of the D.C Office of Tax and Revenue, on or before November 1, 1957, that faces or abuts an alley that does not face or abut a street at any point (alley tax lot).

Lot, Corner: A lot fronting on two (2) or more streets at their junction, with the streets forming with each other an angle of forty-five degrees (45°) up to and including one hundred thirty-five degrees (135°).

Lot, Interior: A lot other than a corner lot or a triangular lot.

Lot Line, Street: A lot line that abuts a street.

Lot Occupancy: The percentage of the total area of a lot that is occupied by the total building area of all buildings and structures on the lot.

Lot of Record: A lot recorded on the records of the Surveyor of the District of Columbia.

Lot, Theoretical: A lot determined by dividing the subdivided lot into theoretical building sites.

Lot, Through: An interior lot having frontage on two (2) or more streets where the streets differ in direction by forty-five degrees (45°) or less.

Lot, Triangular: A lot fronting on two (2) streets at their junction, the streets forming with each other an angle of less than forty-five degrees (45°).

Lot Width: The distance between the side lot lines, measured along the building line; except that, in the case of an irregularly shaped lot, the width of the lot shall be the average distance between the side lot lines. Where the building line is on a skew, the width of the lot shall be the distance between side lot lines perpendicular to the axis of the lot taken where either side lot line intersects the building line.

Main Floor: The floor of the story in which the principal entrance of a building is located.

Manufacturing, Light: A light production, distribution and repair use where all processing, fabricating, assembly, or disassembly of items takes places wholly within an enclosed building.

Map Amendment: A change to the zoning designation of a lot or lots on the District of Columbia Zoning Map.

Marina: The use of land, buildings, structures, and the surface of water for the provision of docking and storage facilities for boats.

Mass Transit Facilities: Facilities, such as but not limited to stations, trackage, ventilating and electrical equipment, parking lots or structures and bus or automobile transfer areas, that have been determined by the Council of the District of Columbia to be necessary to the operation of a fixed right-of-way mass transit system and subject to the restrictions and conditions as may be imposed by the Council of the District of Columbia. Mass transit facilities shall not include commercial, residential, industrial, or other development located in, on, or over facilities approved as part of the basic operating system.

Material Salvage: The processing for further use of goods, wares, merchandise, substances, articles, or things.

Mayor: The Mayor of the District of Columbia.

Media Studio: A studio space dedicated to the recording or production of audio and/or visual art forms or the broadcast via radio, television, internet or other media of audio and/or visual art forms, or the combination of any of the above.

Median Family Income (MFI): The Median Family Income for a household in the Washington Metropolitan Statistical Area as set forth in the periodic calculation provided by the United States Department of Housing and Urban Development, adjusted for family size without regard to any adjustments made by the United States Department of Housing and Urban Development for the purposes of the programs it administers.

Metrorail Station: Rapid transit station operated by the Washington Metropolitan Area Transit Authority (WMATA).

Mezzanine: A floor space within a story between its floor and the floor or roof next above it and having an area of not more than one-third (1/3) of the area of the floor immediately below and which shares a common ceiling. Except in an RF zone, a mezzanine shall not be considered a story in determining the maximum number of permitted stories. In an RF zone, a mezzanine shall be considered a story in determining the maximum number of permitted stories within a principal structure, but shall not be considered a story in determining the maximum number of permitted stories within an accessory building.

Monopole: A single, self-supporting pole-type structure, supporting a fixture designed to hold one (1) or more antennas. Such structures shall not be deemed ground-mounted antennas as that term is used in this chapter.

Mount: The necessary support structure to which an antenna is attached, not including antenna towers or monopoles.

Multifamily Project: As defined by the Secretary of the U.S. Department of Housing and Urban Development (HUD), means a project which consists of not less than five (5) dwelling units on one (1) site, each such unit providing complete living facilities including provisions for cooking, eating, and sanitation within the unit and which is not now covered by a mortgage insured or held by the Secretary.

Nonconforming Structure: A structure lawfully existing at the time this title or any amendment to this title became effective that does not conform to all provisions of this title or such amendment, other than use, parking, loading, and penthouse requirements. Regulatory standards that create nonconformity of structures include, but are not limited to, height of building, lot area, width of lot,

floor area ratio, lot occupancy, setback, court, and residential recreation space requirements.

Nonconforming Use: Any use of land or of a structure, or of a structure and land in combination, lawfully in existence at the time this title or any amendment to this title became effective that does not conform to the use provisions for the zone in which the use is located. A use lawfully in existence at the time of adoption or amendment of this title that would thereafter require special exception approval from the Board of Zoning Adjustment shall not be deemed a nonconforming use. That nonconforming use shall be considered a conforming use, subject to the further provisions of Subtitle X.

Optical Transmission Node: An interior or exterior facility that is utilized as remote terminal units for the operation of such things as cable television systems, high-speed internet access, and interactive video, not including any broadcast antenna or related towers for the transmission of radio waves.

Organization, Non-Profit: An organization organized, registered with the appropriate authority of government, and operated exclusively for religious, charitable, literary, scientific, community, or educational purposes, or for the prevention of cruelty to children or animals; provided that no part of its net income inures to the benefit of any private shareholder or individual.

Parking Area: The area of a lot, building, or structure devoted to parking spaces, attendant driveways, aisles, queuing lanes, and landscaping. All such areas on a lot shall be considered to constitute a single parking area, even if the areas are not contiguous.

Parking Lot: A tract of land used for the temporary parking of motor vehicles when the use is not accessory to any other use.

Parking Space: An accessible off-street area to be used exclusively for the temporary parking of a motor vehicle subject to the dimensional requirements of Subtitle C, Chapter 7.

Parking Space, Bicycle: A space for the temporary storage of a bicycle in the form of a rack, locker, or storage area of appropriate design and dimension, used exclusively for the storage of a bicycle, subject to the dimensional requirements of Subtitle C, Chapter 8.

Parking Space, Compact: A parking space designed for smaller cars which meets the requirements of Subtitle C.

Parking Space, Shared: A parking space that is made available to more than one (1) use, or to the general public and that meets the requirements of Subtitle C.

Parking Space, Structured: A parking space that is within a building or structure above grade.

Parking Space, Surface: A parking space that is not within a building or structure.

Party: An applicant, or the Advisory Neighborhood Commission for the area within which the property that is the subject of the contested case is located, or any person who is accepted as a party by the Commission pursuant to Subtitle Z, or by the Board of Zoning Adjustment pursuant to Subtitle Y.

Penthouse: A structure on or above the roof of any part of a building. The term includes all structures previously regulated as "roof structures" prior to January 8, 2016 by § 411 of the 1958 Regulations. Skylights, gooseneck exhaust ducts serving kitchen and toilet ventilating systems, roof mounted antennas, and plumbing vent stacks shall not be considered as penthouses.

Penthouse Habitable Space: An enclosed space within a penthouse devoted to any use permitted in the zone, unless otherwise restricted, other than penthouse mechanical space. The term penthouse habitable space shall include communal recreation space and associated facilities such as storage, kitchen space, change rooms, or lavatories.

Penthouse Mechanical Space: An enclosed space within a penthouse devoted to mechanical equipment for the building, elevator over-rides, or stair towers.

Permeable Paving: A surface that facilitates water infiltration through paving material while providing a stable, load-bearing surface. Examples include pervious concrete, porous asphalt, perforated brick pavers, flexible porous paving (including porous rubber), mechanically reinforced grass, but do not include grass or gravel.

Pervious Surface: A surface that allows the percolation of water into the underlying soil. Pervious surfaces are required to be contained so neither sediment nor the pervious surface discharges off the site. Pervious surfaces include grass, mulched groundcover, planted areas, vegetated roofs, permeable paving as well as porches and decks erected on pier foundations that maintain the covered lot surface's water permeability. Pervious surfaces do not include any structure or building, any porch or deck that limits the covered lot surface from absorbing water, or any outdoor stairs, on-grade surface sports court, swimming pool, artificial turf, sidewalk or patio constructed of concrete, asphalt, brick, compacted gravel or other material that impedes the infiltration of water directly into the subsurface of the lot.

Pet Grooming Establishment: An establishment that, for a fee, trims or cleans domestic pets, such as dogs and cats. A pet grooming establishment is considered an animal boarding use if more than ten (10) animals are on the premises at a time or the overnight stay of animals is permitted.

Pet Shop: A store for the sale of dogs, cats, birds, tropical fish, and/or other domesticated pets, to the extent permitted by the Animal Protection Amendment Act of 2008, effective December 5, 2008 (D.C. Law 17-281; D.C. Official Code § 8-1808(h)(1)), and related supplies and equipment.

Planned Unit Development (PUD): A plan for the development of residential, institutional, and commercial developments, industrial parks, urban renewal projects, or a combination of these, on land of a minimum area in one (1) or more zones irrespective of restrictions imposed by the general provisions of the Zoning Regulations, as more specifically set forth in Subtitle X, Chapter 3.

Prepared Food: Food that is assembled and heated by microwave, heating lamps or toaster, on the premises of a prepared food shop.

Prepared Food Shop: A food and beverage business that offers seating or carry out service, or both, and which is principally devoted to the sale of prepared food, non-alcoholic beverages, or cold refreshments. This term includes, but is not limited to, an establishment known as a sandwich shop, coffee shop, or an ice cream parlor.

Presiding Officer: The chairperson or the chairperson *pro tem* of the Zoning Commission or the Board of Zoning Adjustment, as relevant.

Public Library: A facility that falls into one (1) of the following categories:

(a) Full-Service Neighborhood - A District of Columbia Public Library housed in a permanent structure that may include meeting rooms, staff work rooms, kitchen facilities and book overflow space. It contains space for a variety of activities, such as children's story hour, film showings and book talks, to take place simultaneously;

(b) Community - A District of Columbia Public Library housed in a portable structure that may include a small staff and minimal space for activities; or

(c) Kiosk - A District of Columbia Public Library housed in a portable structure with no space for activities.

Public Recreation and Community Center: An area, place, structure, or other facility under the jurisdiction of a public agency that is used for community recreation activities. A public recreation or community center may provide a range of health and wellness, cultural, and arts and crafts activities, and educational classes and services. The center may include, but not be limited to, auditorium, multi-purpose room, gymnasium, meeting space, open space, playground, playing court, playing field, and swimming pool. The center shall not include examination rooms, treatment rooms, or other facilities for regular use by members of the medical or dental professions, but may include a first aid room.

Such centers may have pantry-type kitchens with limited food storage and preparation areas, but shall not have kitchen facilities that are of the size customarily used to serve meals for large numbers of persons on a regular basis.

Recreational Building or Use: Any establishment providing facilities for recreation; including, but not limited to, picnicking, boating, fishing, bicycling, tennis, and activities incidental to the foregoing, but not including golf driving ranges or any mechanical amusement device.

Regional Command Center: A Police Department Local Facility used for community outreach or administrative control and managerial services for operations, for a specific geographic area that encompasses two (2) or more districts or commands of the Metropolitan Police Department.

Restaurant: A place of business that does not meet the definition of a "fast food establishment" or "prepared food shop," where food, drinks or refreshments are prepared on the premises and sold to customers primarily for consumption on the premises. This term shall include, but not be limited to, an establishment known as a café, lunch counter, cafeteria, or other similar business, but shall not include a fast food restaurant. In a restaurant, any facilities for carry out shall be clearly subordinate to the principal use of providing prepared foods for consumption on the premises. A restaurant may include ancillary carry out sales, provided that there is no designated carry out counter or window, no drive through facility, and the carry out service is not an advertised element of the business.

Retaining Wall: A vertical, self-supporting structure constructed of concrete, durable wood, masonry or other materials, designed to resist the lateral displacement of soil or other materials. The term shall include concrete walls, crib and bin walls, reinforced or mechanically stabilized earth systems, anchored walls, soil nail walls, multi-tiered systems, boulter walls, or other retaining structures.

Rooming Unit: One (1) or more habitable rooms forming a single, habitable unit used or intended to be used for living or sleeping purposes; but not for the preparation or eating of meals.

School, Public: A building or use within a building operated or chartered by the District of Columbia Board of Education or the District of Columbia Public Charter School Board for educational purposes and such other community uses as deemed necessary and desirable.

The term shall include all educational functions, the building or structure required to house them, and all accessory uses normally incidental to a public school, including but not restricted to athletic fields, field houses, gymnasiums, parking lots, greenhouses, playgrounds, stadiums, and open space.

The term also shall include a community-centered school campus; provided, that no part of the building or structure shall be used to house the administrative offices or maintenance and repair shop intended or used for the entire school system, or as a technical or vocational school.

Service/Delivery Loading Space: An off-street space provided for motor vehicles that are twenty feet (20 ft.) in length or less, and that are making deliveries and/or providing a maintenance service. This space shall not be considered a parking space or a loading berth.

Setback, Front: A distance required between a building and a street lot line, and measured from the street lot line inward to the lot.

Sexually-Oriented Business Establishment: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals, films, materials, and articles, or an establishment that presents as a substantial or significant portion of its activity, live performances, films, or other materials, that are distinguished or characterized by their emphasis on matters depicting, describing, or related to specified sexual activities and specified anatomical areas.

These establishments may include, but are not limited to, bookstores, newsstands, theaters, and amusement enterprises. If an establishment is a sexually-oriented business establishment as defined here, it shall not be deemed to constitute any other use permitted under the authority of this title.

Specified Anatomical Areas: Parts of the human body as follows:

(a) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

(b) Human genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: The following activities:

(a) Acts of human masturbation, sexual intercourse, sexual stimulation or arousal, sodomy, or bestiality; and

(b) Fondling or other erotic touching of human genitals, pubic region, buttock, or breast.

Square: Land designated as a square on the records of the Surveyor of the District of Columbia.

Stable, Private: An accessory building housing not more than four (4) horses or other equine animals for private use and not for remuneration, hire, or sale. The building may also house not more than four (4) horse-drawn vehicles.

Stable, Public: A stable, other than a private stable.

Stealth Structure: A free standing structure, or an extension of a building the primary purpose of which is to enclose and screen antennas from view. Such structures may include, but are not limited to flag poles, tree poles, bell towers. Stealth antenna structures may include, but are not limited to, flag poles, light poles, fence supports, steeples, cupolas, artificial trees, and other appropriate architectural elements.

Story: The space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing. The number of stories shall be counted at the point from which the height of the building is measured.

For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars or penthouses.

Story, Top: The uppermost portion of any building or structure that is used for purposes other than penthouses. The term "top story" shall exclude architectural embellishment.

Street: A public highway designated as a street, avenue, or road on the records of the Surveyor of the District of Columbia.

Street Frontage: The property line where a lot abuts upon a street. When a lot abuts upon more than one (1) street, the owner shall have the option of selecting which is to be the front for purposes of determining street frontage.

Street, Designated: A street within the boundaries of the D zones whose categorization as Primary, Secondary or Tertiary indicates that a building with frontage on that street must adhere to additional dimensional or use regulations that would not apply to a building in a D zone without frontage on a Designated Street.

Street, Designated Business: For the purpose of administering this title, that portion of the Height Act that designates certain streets as "business streets" shall be interpreted to mean those sides and portions of any street located in an MU, NC, PDR, or D zone, or any zone in Subtitle K.

Streetcar Line: A streetcar or light rail line developed and operated in partnership by the District Department of Transportation (DDOT) and the Washington Metropolitan Area Transit Authority (WMATA).

Structure: Anything constructed, including a building, the use of which requires permanent location on the ground, or anything attached to something having a permanent location on the ground and including, among other things, radio or television towers, reviewing stands, platforms, flag poles, tanks, bins, gas holders, chimneys, bridges, and retaining walls. The term structure shall not include mechanical equipment, but shall include the supports for mechanical equipment. Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure.

Sustainability: To create and maintain conditions, under which humans and nature can exist in productive harmony, that permit fulfilling the social, economic, and other requirements of present and future generations of District residents.

Uptown Center: A multi-purpose major activity center with strong transit orientations and significant concentration of employment and high density residential as the principal elements, developed in a manner that serves the surrounding lower density community while protecting it from avoidable intrusions.

Urban Tree Canopy: The layer of leaves, branches, and stems of trees that cover the ground when viewed from above.

Use: The purpose or activity for which a lot or building is occupied. Use shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied, offered for occupancy."

Use, Accessory: A use customarily incidental and subordinate to the principal use, and located on the same lot with the principal use. Unless otherwise specifically permitted, an accessory use in a residential dwelling in a residential zone shall be limited to twenty percent (20%) of the gross floor area.

Use, Principal: The primary purpose or activity for which a lot, structure, or building is occupied.

Use, Temporary: Any use which is established for a fixed period of time with the intent that permission for that use will expire automatically unless renewed. The time period of the allowance of the use shall be determined by the certificate of occupancy.

Vegetated Roofs: A horizontal or near-horizontal surface on top of a building or structure covered with vegetation and a growing medium. Vegetated roofs are intended to promote water or energy conservation by using plants and soils to slow, filter, and infiltrate stormwater runoff. Vegetative roofs may be intensive or extensive but are not limited to modular or layered growth systems.

Vegetated Walls: A vertical or near vertical surface covered with vegetation and in some cases, a growing medium. Vegetated walls may include but are not limited to walls or screens with climbing vines, espalier trees, or modular planting systems.

Veterinary Boarding Hospital: A veterinary hospital that boards animals as an independent line of business.

Veterinary Hospital: An establishment used by a licensed veterinarian for the practice of veterinary medicine and not as an animal boarding establishment.

Wall, Lot Line: An enclosing wall constructed immediately adjacent to a side lot line, but not a party wall.

Wall Plate: A horizontal member built into or laid along the top of a wall to support and distribute pressure from joists, rafters, etc.

Warehouse: Any building or premises where goods or chattel are stored. The term "warehouse" shall not include storage clearly incidental to the conduct of a retail business or other permitted use on the premises.

Waterfront: That area proximate to either the Washington Channel or Potomac or Anacostia Rivers. See Subtitle C, Chapter 11.

Yard: An exterior space, other than a court, on the same lot with a building or other structure. A yard required by the provisions of this title shall be open to the sky from the ground up, and shall not be occupied by any building or structure, except as specifically provided in this title. No building or structure shall occupy in excess of fifty percent (50%) of a yard required by this title.

Yard, Front: A yard between the front façade of a building and the front lot line. The front yard when required, shall extend for the full width of the front of the lot.

Yard, Rear: A yard between the rear line of a building or other structure and the rear lot line, except as provided elsewhere in this title. The rear yard shall be for the full width of the lot and shall be unoccupied, except as specifically authorized in this title.

Yard, rear, depth of: The mean horizontal distance between the rear line of a building and the rear lot line, except as provided elsewhere in this title.

Yard, Side: A yard between any portion of a building or other structure and the adjacent side lot line, extending for the full depth of the building or structure.

Zone: A geographic area delineated on the Zoning Map, which corresponds to the regulations included in DCMR Title 11.

Zone Boundary Line: The line that forms the perimeter of a zone, as mapped in accordance with this title.

Zoning Act: The Zoning Act of 1938, approved June 20, 1938, as amended (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 641.15).

Zoning Administrator: The Zoning Administrator of the District of Columbia.

Zoning Commission: The independent quasi-judicial body charged with preparing, adopting and amending the Zoning Regulations and Zoning Map, campus plans, airspace development in public space, and planned unit developments.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016); Final Rulemaking & Order No. 08-06D published at 63 DCR 10932 (August 26, 2016).

CHAPTER 2 USE CATEGORIES

200 INTRODUCTION

200.1 Use permissions for each zone are identified in the Land Use subtitles.

200.2 When used in this title, the following use categories shall have the following meanings:

(a) Agriculture, Large:

(1) The on-site cultivation or maintenance of plants, or the breeding or keeping of animals and livestock, intended for personal use or eventual sale or lease off-site;

(2) Typical products of an agricultural use include produce, field crops, flowers, ornamental crops, livestock, poultry, honeybees, or other animal husbandry;

(3) Examples include, but are not limited to: farm, truck garden, beekeeping, greenhouse, dairy, or horticultural nursery; and

(4) Exceptions: This use category does not include the customary landscaping of yards, residential gardening, or household pets;

(b) Agricultural, Residential:

(1) The on-site cultivation or maintenance of plants, or keeping of small domestic animals, intended for personal use, sale on-site, or eventual sale off-site;

(2) Typical products of a residential agricultural use include produce, garden crops, flowers, and honeybees;

(3) This use category does not include the customary landscaping of yards, keeping of household pets, or the breeding or housing of large breed animals; and

(4) Examples include, but are not limited to: small-scale truck garden, beekeeping, greenhouse, or community garden;

(c) Animal Sales, Care, and Boarding:

(1) The on-site sale, medical care, or short-term boarding of animals for a fee;

(2) These uses may include licensed veterinary practices such as medicine, surgery, or dentistry for animals, or the provision of animal services such as grooming, training, or care-taking;

(3) Examples include, but are not limited to: pet shop, veterinary clinic or hospital, pet grooming establishment, dog day care center, animal boarding facility, animal sales establishment, or animal shelter; and

(4) Exceptions: This use category does not include uses which would typically fall within the agriculture use categories or the selling of a litter of a domestic pet;

(d) Antennas:

(1) A structure conducting, transmitting, or receiving communication signals;

(2) This use category encompasses the portions of the structure responsible for signal transmission and reception, any associated towers, immediately related support and stabilizing elements, and rotating or other directional mechanisms; and

(3) Examples include, but are not limited to: commercial broadcast antenna, mobile telecommunication antenna, microwave dish, satellite earth station, whip, or yagi antennas;

(e) Arts, Design, and Creation:

(1) The on-site design, rehearsal, or creation of visual, auditory, or performance art;

(2) This use may encompass work space for artists, artisans, or craftsmen practicing fine arts or applied arts or crafts, and may include the sale of items created on the site;

(3) Examples include, but are not limited to: artist studio, artisan production including kiln-firing, metal-working, wood-working, furniture making and glass-blowing arts, or photographic studio; and

(4) Exceptions: This use category does not include uses which would typically fall within the entertainment, assembly, and performing arts, educational, or sexually-oriented business establishment use categories;

(f) Basic Utilities:

(1) The commercial or governmental generation, transmission, distribution, or storage of energy, water, stormwater, cable, or telecommunication-related information;

(2) This use commonly takes the form of infrastructure services which are provided city-wide;

(3) Examples include, but are not limited to: electrical sub-station, telephone exchange, optical transmission node, electronic equipment facility, sewer plant, water treatment plant, methods and facilities for renewable energy generation, or utility pumping station; and

(4) Exceptions: This use category does not include uses which would typically fall within the antennas or waste-related services use categories;

(g) Chancery:

(1) The principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), including the site and any building on such site that is used for such purposes; and

(2) Exceptions: This use category does not include uses which would typically fall within the office or residential use categories, such as an ambassador's residence or embassy staff residence building;

(h) Community-Based Institutional Facility:

(1) A use providing court-ordered monitored care to individuals who have a common need for treatment, rehabilitation, assistance, or supervision in their daily living; have been assigned to the facility; or are being detained by the government, other than as a condition of probation;

(2) Examples include, but are not limited to: adult rehabilitation home, youth rehabilitation home, or detention or correctional facilities that do not fall within the large-scale government use category; and

(3) Exceptions: This use category does not include uses which more typically would fall within the emergency shelter or large-scale government use category. This use category also does not include residential or medical care uses that were previously defined as community residence facilities, health care facilities, substance abuser's homes, or youth residential care homes;

(i) Daytime Care:

(1) The non-residential licensed care, supervision, counseling, or training, for a fee, of individuals who are not related by blood, adoption, or marriage to the caregiver, and who are present on the site for less than twenty-four (24) hours per day;

(2) Examples include, but are not limited to: an adult day treatment facility, child care centers and programs, pre-schools, nursery schools, before-and-after school programs, child development home, an expanded child development home, and elder care centers and programs; and

(3) Exceptions: This use category does not include uses which more typically fall within the medical care or parks and recreation use categories. This use does not refer to home-based care given by parents, guardians, or relatives of the individuals requiring care which does not require a certificate of occupancy;

(j) Eating and Drinking Establishments:

(1) The sale of food, alcoholic drinks, or refreshments prepared on the premises and sold to customers for consumption on or off the premises;

(2) Examples include, but are not limited to: prepared food shop, restaurant, fast food restaurant, or fast food drive-through; within these defined terms, uses may also include, but are not limited to, bar, café, cafeteria, cocktail lounge, coffee shop, delicatessen, an ice cream parlor or nightclub; and

(3) Exceptions: This use category does not include uses which more typically would fall within the sexually-oriented business establishment use category;

(k) Education, College/University:

(1) An institution of higher educational or academic learning providing facilities for teaching and research, offering courses of general or specialized study leading to a degree, and authorized to grant academic degrees; and

(2) Above uses may include, but are not limited to: accessory athletic and recreational areas, dormitories, cafeterias, ancillary commercial uses, multiple academic and administrative buildings, or sports facilities;

(l) Education, Private:

(1) An educational, academic, or institutional use with the primary mission of providing education and academic instruction that provides District or state mandated basic education or educational uses;

(2) Above uses may include, but are not limited to: accessory play and athletic areas, dormitories, cafeterias, recreational, or sports facilities; and

(3) Exceptions: This use category does not include uses which more typically would fall within the daytime care, public education or college/university education use category. This use category also does not include the home schooling of children in a dwelling by their parent, guardian, or private tutor;

(m) Education, Public:

(1) Public or public charter schools at the elementary, middle, junior high, or high school level;

(2) Above uses may include, but are not limited to: accessory athletic areas, dormitories, cafeterias, recreational, or sports facilities; and

(3) Exceptions: This use category does not include uses which more typically would fall within the daytime care, private education or college/university education use category. This group also does not include the home schooling of children in a dwelling by their parent, guardian, or private tutor;

(n) Entertainment, Assembly, and Performing Arts:

(1) A use involving facilities designed primarily for public assembly that enables patrons to experience visual, auditory, performance, or literary arts; attend sporting events or conferences; or to participate in active leisure activities;

(2) These uses may be characterized by activities and structures that draw large numbers of people to specific events or shows;

(3) Examples include, but are not limited to: bowling alley, miniature golf, movie theatre, concert hall, museum, or stadium; and

(4) Exceptions: This use category does not include uses which more typically would fall within the arts design and creation, sexually-oriented business establishment, or parks and recreation use categories;

(o) Firearm Sales:

(1) A use engaged in the on-site sale, lease, or purchase of firearms or ammunition;

(2) This use category has been established to identify those uses which offer sales of goods whose impacts are incompatible with the intended health, safety, and welfare of other uses of land; and

(3) Examples include, but are not limited to: gun store, ammunition sales, pawn shop carrying guns, or weaponry store;

(p) Medical Care:

(1) A use involving the on-site licensed provision of medical diagnosis, treatment, or prevention of illness or disease of humans;

(2) These facilities may provide medical or surgical care to patients or offer overnight care;

(3) Examples include, but are not limited to: dentist, doctor, optician, hospitals, clinics, or medical offices. This use category also includes any facility that meets the definition for and is licensed under the District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 32-1301 *et seq*.); and

(4) Exceptions: This use category does not include uses which more typically would fall within the community-based institutional facility or emergency shelter use category;

(q) Institutional, General:

(1) A non-governmental use involving the public assembly of people or provision of services for social or cultural purposes and which may include uses of a public, nonprofit, or charitable nature generally providing local service on-site to people of a local community;

(2) Examples include, but are not limited to: private clubs, private community centers, private libraries, non-profits, or social service providers; and

(3) Exceptions: This use category does not include uses which more typically would fall within the religious based institutional; chancery; education; entertainment, assembly, and performing arts;

local government; service; office; or parks and recreation use categories;

(r) Institutional, Religious Based:

(1) A non-governmental use involving the public assembly of people or provision of services for religious purposes and which may include related services or uses fundamental to the religious mission;

(2) Examples include, but are not limited to: churches, synagogues, temples, mosques, other places of worship, or related religious schools; and

(3) Exceptions: This use category does not include uses which more typically would fall within the general institutional; chancery; education; entertainment, assembly, and performing arts; local government; service; office; or parks and recreation use categories;

(s) Government, Large Scale:

(1) A use involving services owned, managed, or provided by a governmental entity and associated with providing regional or wider services;

(2) Examples include, but are not limited to: airports, jails, truck dispatch facilities, or police/fire training facilities; and

(3) Exceptions: This use category does not include uses which more typically would fall within the motor vehicle-related or transportation infrastructure use categories;

(t) Government, Local:

(1) A use involving services owned, managed, or provided by local government and associated with providing neighborhood-scaled services to meet the community needs of the directly adjacent areas;

(2) Examples include, but are not limited to: public community centers, police stations, libraries, or fire stations; and

(3) Exceptions: This use category does not include large-scale government uses with a regional or larger service area or uses which more typically would fall within the large-scale government, emergency shelter, parks and recreation, or motor vehicle-related use category. It also does not include administrative offices of

local government agencies, when those office functions meet the definition of the office use category;

(u) Lodging:

(1) A use providing customers with temporary housing for an agreed upon term of less than thirty (30) consecutive days; any use where temporary housing is offered to the public for compensation, and is open to transient rather than permanent guests;

(2) Examples include, but are not limited to: hotels, motels, inns, hostels, or bed and breakfast establishments; and

(3) Exceptions: This use category does not include uses which more typically would fall within the emergency shelter or residential use categories;

(v) Marine:

(1) A use in which proximity to the waterfront constitutes an integral aspect of its function; or uses which depend upon access to the water for their effectuality;

(2) This use category includes activities associated with water and marine-based travel, movement, storage, and related activities;

(3) Examples include, but are not limited to: marina, boathouse, boat launch, dock or pier, boat repair facility, water taxi facility, or water facilities; and

(4) Exceptions: This use category does not include uses which more typically would fall within the motor vehicle-related use category;

(w) Motor Vehicle-Related

(1) A use engaging primarily in the on-site sale, rental, service, maintenance, or refueling of motor vehicles or their components;

(2) These uses include the sale, installation or repair of parts, components, accessories, or fuel for motor vehicles;

(3) Examples include, but are not limited to: gasoline service station, auto repair facility, car wash, automobile sales, boat sales, or motorcycle sales; and

(4) Exceptions: This use category does not include uses which more typically would fall within the retail or parking use category;

(x) Office:

(1) A use engaging primarily in on-site administrative, business, professional, research, or laboratory-based activities;

(2) These uses are characterized by activities in an office setting that focus on the provision of off-site sale of goods or on-site information-based services, usually by professionals;

(3) Examples include, but are not limited to: real estate agency, law firm, accounting firm, advertising agency, stockbrokerage firm, or laboratory; and

(4) Exceptions: This use category does not include uses which more typically would fall within the medical care; education; local government; retail; production, distribution, and repair; financial service; or chancery use categories;

(y) Parking:

(1) A use involving the on-site short or long-term storage of motor vehicles, including surface lots or within structures, when such motor vehicle storage is not provided as accessory parking for another use;

(2) Examples include, but are not limited to: public parking lot, public parking garage, or private garage; and

(3) Exceptions: This use category does not include parking that is accessory to another use;

(z) Parks and Recreation:

(1) A use involving publicly accessible passive or active open space or a structure or facility under the jurisdiction of a public agency that is used for community recreation activities;

(2) Examples include, but are not limited to: public plazas, parks, outdoor recreation, community gardens; areas devoted to recreational activities such as picnicking, boating, fishing, bicycling, tennis, or swimming; classes and services relating to health and wellness, culture, arts and crafts, or education; and structures or other recreation facilities such as auditorium, multi-purpose room, gymnasium, meeting space, open space, playground, playing court, golf course, playing field, or swimming pool, with associated accessory uses such as kitchen facilities; and

(3) Exceptions: This use category does not include private recreation centers such as a commercial gymnasium, or uses which more typically would fall within the entertainment, assembly, and performing arts, arts design and creation, medical care, or service use category;

(aa) Production, Distribution, and Repair:

(1) A use involving the on-site production, distribution, repair, assembly, processing, or sale of materials, products, technology, or goods intended for a wholesale, manufacturing, or industrial application;

(2) Uses may include firms that provide centralized services or logistics for retail uses, and wholesale goods establishments commonly selling to businesses in bulk. These uses typically have little contact with the public;

(3) Examples include, but are not limited to: manufacturing facility, concrete plant, asphalt plant, material salvage, hauling or terminal yard, chemical storage or distribution, outdoor material storage, acetylene gas manufacturing, fertilizer manufacturing, rock quarrying, warehouse, storage, self-storage, ground shipping facility, or wholesale sales; and;

(4) Exceptions: This use category does not include uses which more typically would fall within the retail, service, or waste-related services use categories;

(bb) Residential:

(1) A use offering habitation on a continuous basis of at least thirty (30) days. The continuous basis is established by tenancy with a minimum term of one (1) month or property ownership;

(2) This use category also includes residential facilities that provide housing and supervision for persons with disabilities, which may include twenty-four hour (24 hr.) on-site supervision, lodging, and meals for individuals who require supervision within a structured environment, and which may include specialized services such as medical, psychiatric, nursing, behavioral, vocational, social, or recreational services;

(3) Examples include, but are not limited to: single dwelling unit, multiple dwelling units, community residence facilities, retirement homes, rooming units, substance abusers' home, youth residential care home, assisted living facility, floating homes, or other residential uses; and

(4) Exceptions: This use category does not include uses which more typically would fall within the lodging, education, or community-based institutional facility use categories;

(cc) Retail:

(1) A use engaging primarily in the on-site sale of goods, wares, or merchandise directly to the consumer or persons without a resale license;

(2) These uses include goods commonly sold to individuals in small quantities for their direct use;

(3) Examples include, but are not limited to: shop, appliance, computer, drug, jewelry, fabric, department, large format, or grocery stores; clothing or gift boutiques; or pawn and antique shops; and

(4) Exceptions: This use category does not include wholesale goods commonly sold to businesses in bulk, corner store use, or uses which more typically would fall within the arts, design, and creation; eating and drinking establishments; automobile-related; firearm sales; marine; production, distribution, and repair; or sexually-oriented business use categories;

(dd) Service, General:

(1) A use engaging primarily in the contracting of work that does not necessarily result in a tangible commodity;

(2) These uses may provide personal services or provide small-scale product repair or services for consumer and business goods on-site. Service uses which provide services off-site are typically office uses;

(3) Examples include, but are not limited to: appliance repair, fitness center, yoga studio, shoe repair, tailor, hair salon and barber, or parcel delivery service; and

(4) Exceptions: This use category does not include uses which more typically would fall within the eating and drinking establishments; entertainment, assembly, and performing arts; local government; parks and recreation; animal care and boarding; motor vehicle-related; accommodation; daytime care facility; medical care; sexually-oriented business establishment; arts, design, and creation; marine; or waste-related services use categories;

(ee) Service, Financial:

(1) A use engaging primarily in the provision of banking, loan, mortgage or other similar financial services;

(2) Examples include, but are not limited to: banks, credit unions, or mortgage companies; and

(3) Exceptions: This use category does not include uses which more typically would fall within the office use category;

(ff) Sexually-Oriented Business Establishment:

(1) A use involving goods, services, or live performances that are characterized by their emphasis on matter depicting, describing, or related to specified sexual activities;

(2) Specified sexual activities include, but are not limited to: acts of sexual stimulation or arousal including human genitals in a discernibly turgid state, human masturbation, sexual intercourse, sodomy, or bestiality; or any erotic touching of human genitals, pubic region, buttock, or breast;

(3) This use category has been established to identify those uses which offer services or goods whose sexually-oriented impacts are incompatible with the intended health, safety, and welfare of other uses of land; and

(4) Examples include, but are not limited to: sexually-themed bookstores, newsstands, theatres, or amusement enterprises;

(gg) Transportation Infrastructure:

(1) A use involving structures or conveyances designed for individual mode or multimodal public transportation purposes;

(2) These uses may include land or facilities for the movement or storage of transportation system components;

(3) Examples include, but are not limited to: streetcar or bus passenger depots, transportation rights of way, Metro stations, mass transit stations, bus stops, bicycle paths, bus transfer stations, access ways, airports, bicycle facilities, multi-use paths, pedestrian connections, or streets; and

(4) Exceptions: This use category does not include uses which more typically would fall within the basic utilities use categories; and

(hh) Waste-Related Services:

(1) A use involving the collection, transportation, recycling, or disposal of refuse either on-site or at a transfer station;

(2) This use category may include the collection of sanitary wastes or uses that produce goods or energy from wastes; and

(3) Examples include, but are not limited to: composting facility, incinerator, solid waste handling facility, or non-intensive recycling facility. Unless otherwise noted, these terms have the same meaning as defined in the Solid Waste Facility Permit Act of 1995, effective February 27, 1996 (D.C. Law 11-94; D.C. Official Code § 8-1051).

201 RULES FOR DETERMINING USE CATEGORIES

201.1 Use categories describe activities being performed on-site that have similar functions, physical characteristics, impacts, or operational behaviors.

201.2 All individual uses shall be included in at least one (1) use category. On- and off-site activities associated with a use may cause that use to be included in more than one (1) group.

201.3 A principal use may have one (1) or more accessory uses.

201.4 The Zoning Administrator shall determine the category or categories for a use, based on consistency with Subtitle B, Chapter 2.

201.5 The following may be considered when determining the appropriate group or groups for a use:

(a) The description of the activity or activities in relationship to the definition of each use category;

(b) The relative amount of site or floor space and equipment devoted to each activity;

(c) The relative amounts of sales from each activity;

(d) The customer type for each activity;

(e) The relative number of employees in each activity;

(f) The typical hours of operation;

(g) The building and site arrangement;

(h) The number and type of vehicles used;

(i) The relative number of vehicle trips generated by the activity;

(j) How the use is advertised;

(k) How the use is licensed; and

(l) Similarities in function to the examples and exceptions listed for each use category.

201.6 The activities, functions, physical characteristics, and impacts of a use on a property may not change unless that change has been determined by the Zoning Administrator to be consistent with that use category or a different use category permitted within the applicable zone.

202 APPLICABILITY OF MULTIPLE USES

202.1 When a site contains more than one (1) use and these uses fall within different use categories, each use is subject only to the regulations of the applicable use category.

202.2 If a use is determined to fall into more than one (1) use category, the use is subject to the regulations for all applicable use categories. If this results in conflicting conditions or criteria, the most stringent conditions shall be met.

203 ACCESSORY USES

203.1 Any use allowed as a permitted use in a zone shall be allowed as an accessory use within that zone.

203.2 Any use allowed only with conditions in a zone shall be allowed as an accessory use within that zone, subject to all applicable conditions.

203.3 Accessory uses shall:

(a) Be customarily incidental and subordinate to the principal use, and located on the same lot with the principal use; and

(b) Meet all of the conditions of the appropriate use category.

204 TEMPORARY USES

204.1 Any use allowed as a permitted use in a zone shall be allowed as a temporary use within that zone.

204.2 Any use allowed only with conditions in a zone shall be allowed as a temporary use within that zone, subject to all applicable conditions.

204.3 Temporary uses shall:

(a) Have the time period of the allowance established on the certificate of occupancy but shall not exceed one (1) year; and

(b) Not result in the erection of any new permanent structures, although existing permanent structures may be used for a temporary use.

CHAPTER 3 GENERAL RULES OF MEASUREMENT

300 PURPOSE

300.1 This chapter provides general rules for measurement and calculation applicable to all zones unless otherwise stated in this title.

300.2 The development and density standards shall be applied together to regulate bulk and build out of a lot.

300.3 The potential density of a lot does not create an entitlement that supersedes the physical development standards nor shall potential density be given greater status when considering a variance application.

301 DENSITY

301.1 Residential density is calculated as either the maximum number of principal dwelling units per lot in the R and RF zones or by floor area ratio (FAR) in the other zones.

301.2 In other than residential zones, the density is calculated by FAR.

301.3 Specified uses may also be limited to a gross floor area (GFA) and are identified within applicable zones.

301.4 Each use within a zone may or may not have the same density entitlements within the same zone. In the MU, NC, D, and Subtitle K zones, there may be a limit on non-residential density or a residential requirement.

302 RULES OF MEASUREMENT FOR DWELLING UNIT DENSITY

302.1 In the low-density R zones, density is established as a single principal dwelling unit per lot. In those low-density residential zones that are limited to a single principal dwelling per lot, a single accessory apartment may be permitted per principal dwelling subject to conditions.

302.2 In the moderate-density RF zones, density is established as a maximum number of principal dwelling units per building, and in certain cases, through the number of principal dwelling units per minimum land area.

302.3 Occupancy of a principal dwelling unit is based on a household, unless otherwise permitted within a zone.

303 RULES OF MEASUREMENT FOR FLOOR AREA RATIO

303.1 FAR shall be calculated by dividing the total GFA, as calculated under Subtitle B § 304, of all buildings on a lot by the area of that lot.

303.2 For the purpose of calculating FAR, lot area shall not include private rights-of-way that serve as the equivalent of a private street for the site, but shall include private rights-of-way that provide access to service, loading, or automobile parking areas.

303.3 FAR provided in the development standards shall be limited to two (2) decimal places.

304 RULES OF MEASUREMENT FOR GROSS FLOOR AREA (GFA)

304.1 GFA is measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings.

304.2 Non-residential floor area shall be the total GFA of a building not dedicated to one (1) of the following uses:

(a) Residential;

(b) Community-based institutional facility;

(c) Emergency shelter;

(d) Lodging use with less than thirty (30) rooms;

(e) Guest rooms and service areas of a lodging use with thirty (30) or more rooms; or

(f) Education uses that are operated or chartered by the District government.

304.3 The GFA of a lodging use dedicated to function rooms, exhibit space, commercial adjuncts and any other use not considered guest room or service area shall be considered non-residential floor area.

304.4 For a building entirely detached from any other building, calculation of GFA for the portion of a story located partially below finished grade shall be as follows:

(a) Measure the portions of the perimeter of the story located partially below finished grade that have a height greater than or equal to four (4) feet, when measured between the finished grade and the ground floor of the story above;

(b) Measure the total perimeter of the story located partially below finished grade;

(c) Divide the distance of the result of paragraph (a) by the distance of the result of paragraph (b); and

(d) Multiply this result by the total floor area of the story located partially below finished grade.

304.5 For a building attached at any point to a neighboring building, GFA of the portion of a story located partially below finished grade shall be calculated as follows:

(a) Establish a line between the midpoint of a building façade facing the nearest street at finished grade and the midpoint of the opposite building façade at finished grade;

(b) Determine the portion of this line where the distance between it, and the ground floor of the story directly above, is greater than or equal to six (6) feet;

(c) Project a perpendicular line from the point along the line described in paragraph (b) to the exterior walls of the building; and

(d) Measure the floor area that is between the projected perpendicular line and the other portions of the story with a height greater than or equal to six (6) feet, when measured from the perpendicular line to the ground floor of the story above.

305 EXCEPTIONS TO DENSITY REGULATIONS FOR ENCLOSING OPEN ARCADES

305.1 Notwithstanding applicable FAR limitations and subject to this section, an existing open arcade in a building in any MU or D zone may be enclosed.

305.2 An open arcade area enclosed pursuant to this section must be solely devoted to retail, arts, or service uses permitted as a matter of right within that zone.

305.3 An open arcade may not be enclosed if:

(a) It is in a building that is a historic landmark or has been designated as contributing to a historic district; and

(b) The Historic Preservation Review Board has determined that the arcade constitutes a feature contributing to the building's historic or architectural significance; or

(c) The floor of the open arcade would not be at the same level and continuous with the adjacent sidewalk in public space, or would not

connect to an existing, adjoining open arcade adjacent to sidewalk in public space.

306 HEIGHT

306.1 In addition to the height limitations of the Zoning Regulations, all buildings are also subject to and shall conform to the limitations of the Height Act.

306.2 Where the maximum height permitted within a zone differs from the maximum height permitted by the Height Act, the more restrictive maximum height shall apply.

306.3 Zone height limits shall be stated in terms of feet.

306.4 The height limits in each zone apply to structures located in the public space included within the zone's boundary.

307 RULES OF MEASUREMENT FOR BUILDING HEIGHT: NON-RESIDENTIAL ZONES

307.1 In other than R, RF, RA, RC-1, CG-1 and D-1 zones, the building height shall be the vertical distance measured from the level of the curb, opposite the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district.

307.2 Unless otherwise restricted or permitted in this title, in those zones in which the height of the building is limited to forty feet (40 ft.), the height of the building may be measured from the finished grade level at the middle of the front of the building to the ceiling of the top story.

307.3 In those zones in which the height of the building is limited to sixty feet (60 ft.), in the case of a building located upon a terrace, the height of the building may be measured from the top of the terrace to the highest point of the roof or parapet, but the allowance for terrace height shall not exceed five feet (5 ft.).

307.4 Except as provided in Subtitle B § 307.6, where a building is removed from all lot lines by a distance equal to its proposed height above grade, the height of building shall be measured from the natural grade at the middle of the front of the building to the highest point of the roof or parapet.

307.5 Except as provided in Subtitle B § 307.7, if a building fronts on more than one (1) street, any front may be used to determine the maximum height of the building; but the basis for the height of the building shall be determined by the width of the street selected as the front of the building.

307.6 Except as provided in Subtitle B § 307.4, in those zones in which the height of building is permitted to be ninety feet (90 ft.) or greater, the height of buildings shall be measured from the finished grade level at the middle of the front of the

building to the highest point of the roof excluding parapets not exceeding four feet (4 ft.) in height.

307.7 When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, the height of a building shall be measured using the first of the following four (4) methods that is applicable to the site:

(a) An elevation or means of determination established for a specific zone elsewhere in this title;

(b) An elevation for the site that was determined prior to the effective date of this section by the Zoning Administrator, or the Redevelopment Land Agency, its predecessors or successors;

(c) A street frontage of the building not affected by the artificial elevation; or

(d) A level determined by the Zoning Administrator to represent the logical continuation of the surrounding street grid where height is not affected by the discontinuation of the natural elevation.

308 RULES OF MEASUREMENT FOR BUILDING HEIGHT: R, RF, RA, RC-1, CG-1, AND D-1 ZONES

308.1 The height of buildings, not including a penthouse, in R, RF, RA, RC-1, CG-1, and D-1 zones shall be measured in accordance with the rules provided in this section. If more than one (1) of these subsections applies to a building, the rule permitting the greater height shall apply.

308.2 The building height measuring point (BHMP) shall be established at the existing grade at the mid-point of the building façade of the principal building that is closest to a street lot line.

308.3 The height of a building with a flat roof shall be measured from the BHMP to the highest point of the roof excluding parapets and balustrades not exceeding four feet (4 ft.) in height.

308.4 The height of a building with a roof that is not a flat roof shall be measured as follows:

(a) From the BHMP to the average level between the highest eave, not including the eave of a dormer and the highest point of the roof; and

(b) Where there are no eaves, the average level shall be measured between the top of the highest wall plate and the highest point of the roof.

308.5 The height of a building permitted to be ninety feet (90 ft.) shall be measured from the BHMP to the highest point of the roof excluding parapets and balustrades not exceeding four feet (4 ft.) in height.

308.6 Where a building is removed from all lot lines by a distance equal to its proposed height above grade, the height of building shall be measured from the BHMP to the highest point of the roof or parapet.

308.7 If a building fronts on more than one (1) street, any front may be used to determine street frontage; but the basis for measuring the height of the building shall be established by the street selected as the front of the building.

308.8 A conforming structure in existence on June 14, 2013, that would have been rendered nonconforming as a result of the adoption of amendments to this section made in Z.C. Order No. 12-11, shall be deemed conforming; provided that the height of the structure may neither be increased or extended.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

309 SINGLE OR SEPARATE BUILDINGS

309.1 For purposes of this chapter, structures that are separated from the ground up by common division walls or contain multiple sections separated horizontally, such as wings or additions, are separate buildings. Structures or sections shall be considered parts of a single building if they are joined by a connection that is:

(a) Fully above grade;

(b) Enclosed;

(c) Heated and artificially lit; and

(d) Either:

(1) Common space shared by users of all portions of the building, such as a lobby or recreation room, loading dock or service bay; or

(2) Space that is designed and used to provide free and unrestricted passage between separate portions of the building, such as an unrestricted doorway or walkway.

309.2 Notwithstanding Subtitle B, § 309.1, a single building shell may contain multiple uses or dwelling units that do not share access.

310 RULES OF MEASUREMENT FOR NUMBER OF STORIES

310.1 The number of stories shall be counted at the point from which the height of the building is measured.

310.2 For the purposes of determining the maximum number of permitted stories, the term "story" shall not include cellars or penthouses.

310.3 Except in the RF zones, a mezzanine shall not be considered a story in determining the maximum number of permitted stories.

310.4 In an RF zone, a mezzanine shall be considered a story in determining the maximum number of permitted stories within a principal structure, but shall not be considered a story in determining the maximum number of permitted stories within an accessory building.

311 LOT OCCUPANCY

311.1 Lot occupancy regulations are intended to provide a primary control of the total volume of buildings on a lot through the restriction of a building's horizontal area above a designated horizontal plane. The lot occupancy standards applied through land use subtitles are intended to contribute, along with height regulations, to ensuring that buildings within a zone are generally consistent in their volume.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

312 RULES OF MEASUREMENT FOR LOT OCCUPANCY

312.1 The main building and any accessory buildings shall be subject to the lot occupancy standard prescribed in the development standards table for the zone in which the building is located.

312.2 Lot occupancy shall be calculated by dividing the total building area of all buildings on a lot by the total area of the lot.

312.3 Building area shall be the maximum horizontal projected area of a principal building and its accessory buildings, measured at the ground level of the buildings and measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings.

312.4 Building area shall not include:

(a) Building components or appurtenances dedicated to the environmental sustainability of the building;

(b) Cornices and eaves;

(c) Sills, leaders, belt courses, and similar ornamental or structural features;

(d) Awnings, serving a window, porch, deck, or door;

(e) Uncovered stairs, landings, and wheelchair ramps that serve the main floor; and

(f) Chimneys, smokestacks, or flues.

312.5 Any railing required by the D.C. Construction Codes Supplement, Title 12 DCMR, that is required to project into the horizontal plane shall be permitted, and shall not be included in the measurement of building area.

312.6 When adding a vertical addition to an existing building, each added story must comply with the required lot occupancy limitation.

312.7 In the case of a building devoted to both residential and nonresidential uses, the percentage of lot occupancy for residential uses may be calculated on a horizontal plane located at the lowest level where residential uses begin.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

313 FRONT SETBACKS AND BUILD-TO LINES

313.1 Front setback and build-to regulations are intended to control the relationship of buildings to street lot lines.

313.2 Front setbacks and build-to lines regulate the distance between a building and a front lot line.

313.3 A lot may have more than one (1) street lot line, and therefore more than one (1) front setback.

314 FRONT SETBACKS

314.1 When a zone has a front setback requirement, all buildings and structures must be set back from the entire length of all street lot lines, except as provided in Subtitle B § 317.

314.2 Front setbacks shall be regulated in one (1) of three (3) ways:

(a) By a single setback distance measurement cited for a zone which shall be applicable to all buildings and structures in the zone;

(b) By a setback range cited for a zone, within which all buildings and structures in the zone must be set back from a street lot line; or

(c) By an "existing range of blockface" cited for a zone; buildings and structures in the zone must be set back between from the street lot line by at least as much as the existing building on the blockface closest to the street, and no more than the existing building on the blockface furthest from the street.

315 RULES OF MEASUREMENT FOR FRONT SETBACKS FOR RESIDENTIAL HOUSE (R) ZONES

315.1 A proposed building façade or structure facing a street lot line shall be located a distance:

(a) Not closer to the street than the point of the building façade closest to the street, based on all the buildings located along the blockface; and

(b) Not further back from the same street than the building façade furthest from the street, based on all the buildings located along the blockface; and

(c) The building façade of an interior lot attached building shall not be further forward or further back than the building façade of one (1) of the immediately adjoining buildings.

315.2 A building façade shall be the façade of a building exclusive of the projections permitted through Subtitle B § 323.

315.3 If a lot has more than one (1) street lot line, the owner of the lot may choose the street lot line that shall determine the application of any front setback requirement.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

316 FRONT BUILD-TO LINES

316.1 When a zone has a front build-to requirement, the front façade of all buildings and structures must directly abut the build-to line.

317 REAR YARDS

317.1 Rear yards regulate the distance between a building and a rear lot line.

317.2 A lot may have more than one (1) rear lot line.

317.3 No rear yard is required for through lots.

318 RULES OF MEASUREMENT FOR REAR YARDS

318.1 In the case of a lot that is triangular or irregularly shaped, the furthermost point or line from the street lot line shall be deemed the point or line from which the required rear yard shall be measured.

318.2 The depth of a required rear yard shall be measured as the mean horizontal distance between the rear line of a building and the rear lot line, except as provided elsewhere in this title.

318.3 Where the rear lot line is not parallel to the street lot line, or where there are more than one (1) rear lot lines that intersect at a point at an angle greater than ninety degrees (90º), the required rear yard shall be measured as a vertical plane along a line measured in from the rear lot line at a point equidistant from the side lot lines.

318.4 Where a lot does not have a rear lot line, such as when the side yards converge at a point, or where the rear lot lines intersect at an angle less than ninety degrees (90º), a rear yard shall be measured as an arc from the point opposite the front lot line(s).

318.5 Where there is more than one (1) rear lot line generally parallel to the front lot line but separated by a lot line generally perpendicular to the rear lot lines, then the rear yard setback shall be measured from the rear lot line more distant from the front lot line, and measured across the full width of the property to where it intersects both side lot lines.

318.6 In the case of a corner lot in any D zone other than the D-1-R zone, a court complying with the width requirements for a closed court as specified in Subtitle I § 207.1 and Subtitle B § 324 may be provided in lieu of a rear yard. For the purposes of this section, the required court shall be provided above a horizontal plan twenty-five (25) feet above the mean elevation of the rear lot line.

318.7 In the case of a corner lot in the MU-8, MU-9, MU-20, MU-21, NC-13, and CG-3 zones, a court complying with the width requirements for a closed court as applicable for each zone may be provided in lieu of a rear yard. For the purposes of this section, the required court shall be provided above a horizontal plan beginning not more than twenty feet (20 ft.) above the curb grade opposite the center of the front of the building and the width of the court shall be computed for the entire height of court.

318.8 In the case of a through or corner lot abutting three (3) or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

319 SIDE YARDS

319.1 Side yards regulate the distance between a building and a side lot line.

319.2 A lot may have more than one (1) side yard.

320 RULES OF MEASUREMENT FOR SIDE YARDS

320.1 A required side yard shall be parallel to a side lot line and apply to the entirety of principal buildings and structures. If a required side yard intersects with a

required rear yard, the larger yard shall apply for the required distance of the larger yard.

320.2 An addition to an existing semi-detached or detached principal building must meet the side yard requirements for that type of building in the zone. An existing detached or semi-detached building may not be treated as an attached building through the construction of additions.

321 COURTS

321.1 Court regulations control:

(a) The minimum distance between two (2) building walls on the same lot that face one another, when the space between the two (2) walls is uncovered; and

(b) The minimum area of closed courts.

322 RULES OF MEASUREMENT FOR GENERAL COURT

322.1 The provisions of this chapter do not require a court, but regulate its minimum required dimensions where they exist.

322.2 Where a court is open to a yard or any lot line, the court width requirements apply only to the dimension that is parallel or nearly parallel to the opening.

322.3 Court width requirements are expressed as a ratio of required width to height of a court. The height of a court is measured from the base of the court, even where the base may be on an upper story of a building.

322.4 If the court is not rectangular, the width shall be the diameter of the largest circle that may be inscribed in a horizontal plane within the court.

323 PROJECTIONS INTO REQUIRED OPEN SPACES

323.1 Except for the projections and encroachments specified in this section and the exceptions in Subtitle B § 324, every part of a required yard or court or other required open space shall be open and unobstructed to the sky.

323.2 Cornices and eaves may project over any required yard or court for a distance not to exceed two feet (2 ft.).

323.3 Sills, leaders, belt courses, and similar ornamental or structural features may project over any required yard or court a distance not to exceed six inches (6 in.).

323.4 The ordinary projection of skylights above the bottom of a yard or court shall be permitted if placed so as not to obstruct light and ventilation.

323.5 Awnings serving a window, porch, or door may project into a required yard or open court for a distance not to exceed forty inches (40 in.).

323.6 An open or lattice-enclosed fire balcony or fire escape may project into a required yard or an open court for a distance not to exceed four feet (4 ft.).

323.7 A chimney, smokestack, or flue may project into any required rear yard, provided the horizontal section of the projection does not exceed five square feet (5 sq. ft.).

323.8 A chimney, smokestack, or flue may project into any required side yard for a distance not to exceed two feet (2 ft.).

323.9 A self-contained air conditioner may project into any required yard or court a distance not to exceed two feet (2 ft.).

324 STRUCTURES IN REQUIRED OPEN SPACES

324.1 Every part of a yard required under this title shall be open and unobstructed to the sky from the ground up except as follows:

(a) A structure, not including a building no part of which is more than four feet (4 ft.) above the grade at any point, may occupy any yard required under the provisions of this title. Any railing required by the D.C. Construction Code Supplements, Title 12 DCMR, shall not be calculated in the measurement of this height;

(b) A fence or retaining wall constructed in accordance with the Construction Code may occupy any yard required under the provisions of this title; and

(c) Stairs leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under provisions of this title. The stairs shall include any railing required by the provisions of the Construction Code.

324.2 Projecting elements or structures shall not interfere with any driveway leading to a required parking space.

325 TRANSITIONS

325.1 Transition regulations control the physical relationship of buildings and lot improvements, in designated zones, to reduce potential impacts on existing neighbors in adjacent zones.

325.2 Potential impacts intended to be avoided by transition regulations include, but are not limited to:

(a) Dramatic contrasts in height between new buildings, within subject zones;

(b) Existing buildings within the surrounding zones; and

(c) The creation of preventable building shadowing.

326 GENERAL REGULATIONS FOR ZONE TO ZONE TRANSITIONS

326.1 Transition regulations shall be required as height transitions or as buffer transitions when specifically required by a zone district.

326.2 Height transitions limit the height of buildings based on an angled plane drawn from a point above an adjacent property's property line.

326.3 Buffer transitions provide a setback from an adjacent lot line. Buffer transitions generally include screening requirements for the setback.

326.4 Transition regulations apply in addition to, and not instead of, side setbacks, rear yards, and front setbacks.

327 GENERAL CONDITIONS FOR TRANSITION REGULATIONS

327.1 The projections identified in the following table are permitted to encroach into any required height transition plane subject to the following limits:

TABLE B § 329.1: LIMITATIONS ON ENCROACHMENT INTO ANY REQUIRED HEIGHT TRANSITION PLANE

PROJECTING ELEMENT	LIMITATIONS
Cornices and eaves	Not to exceed 2 ft.
Sills, leaders, belt courses, and similar ornamental or structural features	Not to exceed 6 in.
A balcony railing	Not to exceed 4 ft.
Skylights	Not to exceed 4 ft.
A chimney, smokestack, or flue	No limit
Spires	No limit
Towers, including towers erected from the ground	No limit
Domes, minarets, pinnacles, pergolas and similar architectural embellishments	No limit

327.2 The projections and structures identified in the following table may encroach into any required buffer transition setback, up to the limits specified:

TABLE B § 329.2: LIMITATIONS ON ENCROACHMENT INTO ANY REQUIRED BUFFER TRANSITION SETBACK

PROJECTING ELEMENT	LIMITATIONS
Cornices and eaves	Not to exceed 2 ft.
Sills, leaders, belt courses, and similar ornamental or structural features	Not to exceed 6 in.

PROJECTING ELEMENT	LIMITATIONS
The ordinary projection of skylights, above the bottom of the minimum side setback	Shall be placed so as not to obstruct light and ventilation
Awnings serving a window, porch, or door	Not to exceed 40 in.
A chimney, smokestack, or flue	Not to exceed 2 ft.
A self-contained air conditioner	Not to exceed 2 ft.
Building components or appurtenances dedicated to the environmental sustainability of the building	Not to exceed 4 ft.
A structure, including a building	Must be less than 4 ft. in height above the grade at any point. Any railing required by the D.C. Construction Codes Supplement, 12 DCMR, shall not be included in the measurement of the structure's height.
A fence or retaining wall	Must be constructed in accordance with the D.C. Construction Codes Supplement, 12 DCMR
Stairs and associated D.C. Construction Code Supplement required guard rails	Must lead to the first story of the building located entirely above grade, or to a story below grade
An antenna	Must comply with all other requirements of this title

328 RULES OF MEASUREMENT FOR FLOOR TO CEILING CLEAR HEIGHT

328.1 The upper point of the measurement is the finished ceiling that is unobstructed by any of the following:

(a) Elements of the building structure, other than columns and walls;

(b) Components of mechanical, plumbing, or fire suppression systems; or

(c) Components of electrical systems, except lighting fixtures.

328.2 If the ceiling is not finished, the distance shall be measured to the lowest point of any of the structural elements of systems referenced in Subtitle B §§ 328.1(a), (b), or (c).

328.3 For all stories above the ground level and for a ground story for which there is no clear height requirement, the bottom point of the measurement shall be the level of the finished floor. For a ground story subject to minimum clear height requirements, the bottom measuring point for clear height shall be the level of the curb opposite the middle of the building's frontage on the street from which the building draws its clear height requirement.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

TITLE 11 – ZONING

SUBTITLE C GENERAL RULES

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CHAPTER 1 INTRODUCTION TO GENERAL RULES

100 PURPOSE AND APPLICABILITY

100.1 Subtitle C provides general regulations applicable to all zones unless otherwise stated in this title.

CHAPTER 2 NONCONFORMITIES

200 INTRODUCTION TO NONCONFORMITIES

200.1 This chapter addresses structures, uses of land, and uses of structures that were lawful before this title was adopted, but that would be prohibited, regulated, or restricted under the terms of this title as it may be amended, and provides:

(a) Guidance regarding continuance, expansion, or replacement of nonconforming uses;

(b) Guidance on additions or expansions to nonconforming structures; and

(c) Regulations for rebuilding nonconforming structures or reestablishing nonconforming uses.

200.2 Nonconformities shall be regulated in the following categories:

(a) Nonconforming use of land or structures; and

(b) Nonconforming structures.

200.3 A particular property could be regulated as either or both category.

201 GENERAL PROVISIONS

201.1 Except as otherwise permitted in this chapter, nonconforming structures or uses may not be enlarged upon, expanded, or extended, nor may they be used as a basis for adding other structures or uses prohibited elsewhere in the same zone district.

201.2 Any nonconforming use of a structure or of land, or any nonconforming structure lawfully existing on the effective date of this title that remains nonconforming, and any use or structure lawfully existing that became nonconforming on the effective date of this title, may be continued, operated, occupied, or maintained, subject to the provisions of this chapter.

201.3 It is necessary and consistent with the establishment of the separate zone districts under this title that all uses and structures incompatible with permitted uses or structures shall be regulated strictly and permitted only under rigid controls, to the extent permitted by the Zoning Act of 1938.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

202 NONCONFORMING STRUCTURES

202.1 Except as provided in Subtitle C § 203.8, ordinary repairs, alterations, and modernizations to the structure, including structural alterations, shall be permitted.

202.2 Enlargements or additions may be made to the structure; provided that the addition or enlargement itself shall:

(a) Conform to use and development standard requirements; and

(b) Neither increase or extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined.

203 DESTRUCTION OF A NONCONFORMING STRUCTURE

203.1 If a nonconforming structure is destroyed by fire, collapse, explosion, or act of God to an extent of more than seventy-five percent (75%) of the cost of reconstructing the entire structure, the nonconforming structure shall not be restored or reconstructed except in conformity with all provisions of this title, except as provided otherwise in Subtitle C §§ 203.2 through 203.7.

203.2 If a casualty or act of God results in damage to an extent of more than seventy-five percent (75%), and if the structure is nonconforming only with respect to percentage of lot occupancy the structure may be reconstructed or restored to its previous condition or to a more conforming condition, even if that condition does not comply with the applicable percentage of lot occupancy.

203.3 If a casualty or act of God results in damage to an extent of seventy-five percent (75%) or less of the cost of reconstructing the entire structure, the structure may be restored or reconstructed to its previous condition or to a more conforming condition; provided, that the reconstruction or restoration shall be started within twenty-four (24) months of the date of the destruction and continued diligently to completion.

203.4 If there is a dispute between the property owner and the Zoning Administrator as to whether the structure has been destroyed to the extent of seventy-five percent (75%) of reconstruction cost, the costs of restoration and of reconstruction shall be determined by the average of the estimates furnished by three (3) independent qualified contractors. One (1) contractor shall be selected by the owner, one (1) by the Zoning Administrator, and one (1) by the first two (2) mentioned contractors.

203.5 The estimates required by Subtitle C § 203.4 shall be prepared and submitted according to a standard procedure and format established by the Zoning

Administrator, and the cost of estimates shall be at the expense of the property owner.

203.6 Notwithstanding the restrictions of Subtitle C § 203.1, a nonconforming structure that is a historic landmark or certified by the Historic Preservation Office to be a structure that contributes to the character of the historic district within which it is located, may be restored or reconstructed regardless of the extent of destruction of the structure, subject to the provisions of the Historic Landmark and Historic District Protection Act of 1978.

203.7 The twenty-four (24) month period provided in Subtitle C § 203.3 may be extended for as long as it takes to apply for and receive any governmental approvals necessary to accomplish the reconstruction or restoration, including but not limited to approvals from the Board of Zoning Adjustment, the Historic Preservation Review Board, and the Mayor's Agent for the Historic Landmark and Historic District Protection Act.

203.8 If a nonconforming antenna stops functioning, a temporary replacement antenna may be installed, subject to the following conditions:

(a) A permanent replacement antenna cannot be installed as a matter of right;

(b) The temporary installation shall be removed no later than one (1) year after the nonconforming antenna stops functioning;

(c) Within three (3) months after the nonconforming antenna stops functioning, the owner or occupant of the land or structure on which the antenna is installed shall apply to the Board of Zoning Adjustment for a special exception under Subtitle X, Chapter 9, to install a longer term replacement; and

(d) If the owner or occupant elects to install an immediate replacement antenna, the cost of the temporary replacement shall not be considered by the Board of Zoning Adjustment as a basis for approval of a special exception to install a longer term replacement.

204 NONCONFORMING USE

204.1 A nonconforming use of land or structure shall not be extended in land area, gross floor area, or use intensity; and shall not be extended to portions of a structure not devoted to that nonconforming use at the time of enactment of this title.

204.2 Where the nonconforming use occupies only a portion of the structure, the restrictions in this section shall apply only to that part of the structure devoted to the nonconforming use.

204.3 A new structure shall not be constructed to contain a nonconforming use, and any addition to an existing structure containing a nonconforming use shall be devoted to a conforming use.

204.4 Discontinuance for any reason of a nonconforming use of a structure or of land, except where governmental action impedes access to the premises, for any period of more than three (3) years, shall be construed as *prima facie* evidence of no intention to resume active operation as a nonconforming use. Any subsequent use shall conform to the regulations of the zone in which the use is located.

204.5 This presumption may only be rebutted by objective proof of a continuing use or of affirmative steps taken to resume the use during the period of time identified by the Zoning Administrator when revoking an existing certificate of occupancy or denying an application for a replacement certificate of occupancy.

204.6 A nonconforming use that is discontinued for any reason for a period of three (3) years or less shall be allowed to resume operation provided there was no intervening confirming use, there are no changes to the non-conforming use and it conforms with Subtitle C § 204.1.

204.7 Ordinary repairs, alterations, or modernizations may be made to a structure or portion of a structure devoted to a nonconforming use. Structural alterations shall not be allowed, except those required by other municipal law or regulation; provided, that structural alterations shall be permitted to a lawfully existing, nonconforming flat or apartment house located in a Residential House (R) zone, or to a lawfully existing, nonconforming apartment house located in a Residential Flat (RF) zone.

204.8 A non-conforming use may be changed to a use permitted as a matter of right in the zone in which the property is located.

204.9 If approved by the Board of Zoning Adjustment, a nonconforming use may be changed to another nonconforming use, subject to the general special exception criteria of Subtitle X, Chapter 9, and the following conditions:

(a) The proposed non-conforming use would be permitted as a matter-of-right in the most restrictive subtitle in which the existing non-conforming use is permitted as a matter of right, in accordance with following order, from most restrictive to least restrictive subtitle:

(1) Subtitle D – Residential House (R) zones;

(2) Subtitle E – Residential Flat (RF) zones;

(3) Subtitle F – Residential Apartment (RA) zones;

(4) Subtitle H – Neighborhood Mixed-Use (NC) zones;

(5) Subtitle G – Mixed-Use (MU) zones;

(6) Subtitle I – Downtown zones (D);

(7) Subtitle J – Production, Distribution, and Repair (PDR) Zones; and

(8) Subtitle K – Special Purpose Zones.

(b) In the R, RF, or RA zones, the proposed use shall be either a single dwelling unit, flat, or a multiple dwelling unit development; except on an alley lot, the proposed use may only be a single dwelling unit;

(c) In the R and RF zones, the corner store provisions of the relevant subtitle shall apply;

(d) The external impacts of the proposed use will be deemed to be no greater than the existing use;

(e) The proposed use shall not adversely affect the present character or future development of the surrounding area within at least three hundred feet (300 ft.) of the site;

(f) The proposed use shall not create any deleterious external effects, including, but not limited to, noise, traffic, parking and loading considerations, illumination, vibration, odor, and design and siting effects;

(g) When an existing nonconforming use has been changed to a conforming or more restrictive use, it shall not be changed back to a nonconforming use or less restrictive use; and

(h) The Board of Zoning Adjustment may require the provision of changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, or any other restriction or safeguard it deems necessary to protect the value, utilization, or enjoyment of property in the neighborhood.

205 DESTRUCTION OF A STRUCTURE DEVOTED TO A NONCONFORMING USE

205.1 If a structure devoted to a nonconforming use is destroyed by fire, collapse, explosion, or act of God to an extent of more than fifty percent (50%) of the cost of reconstructing the entire structure, it shall not be restored or reconstructed except in conformity with all provisions of this title, except as provided otherwise in this section.

205.2 If the casualty or act of God results in damage to an extent of fifty percent (50%) or less of the cost of reconstructing the entire structure, the structure may be restored or reconstructed to its previous condition or to a more conforming condition; provided, that the reconstruction or restoration shall be started within twenty-four (24) months of the date of the destruction and diligently continued to completion.

205.3 If there is a dispute between the property owner and the Zoning Administrator as to whether the structure has been destroyed to the extent of fifty percent (50%) of reconstruction cost, the costs of restoration and of reconstruction shall be determined by the average of the estimates furnished by three (3) independent qualified contractors, with one (1) of the contractors shall be selected by the owner, one (1) by the Zoning Administrator, and one (1) by the first two (2) mentioned contractors.

205.4 The estimates required by Subtitle C § 205.3 shall be prepared and submitted according to a procedure and format established by the Zoning Administrator, and the cost of preparing the estimates shall be at the expense of the property owner.

205.5 Notwithstanding the restrictions of Subtitle C § 205.1, a structure devoted in whole or in part to a nonconforming use that is an historic landmark or certified by the Historic Preservation Office to be a structure that contributes to the character of the historic district within which it is located, may be restored or reconstructed and the non-conforming use shall be allowed to be continued, regardless of the extent of destruction of the structure, subject to the provisions of the Historic Landmark and Historic District Protection Act of 1978.

205.6 The twenty-four (24) month period provided in Subtitle C § 205.2 may be extended for as long as it takes to apply for and receive any governmental approvals necessary to accomplish the reconstruction or restoration, including but not limited to approvals from the Board of Zoning Adjustment, the Historic Preservation Review Board, and the Mayor's Agent for the Historic Landmark and Historic District Protection Act.

CHAPTER 3 SUBDIVISION

300 INTRODUCTION

300.1 This chapter provides:

(a) General rules for the creation of new record lots;

(b) Guidance regarding how to determine the applicability of lot dimension and shape regulations to a zone;

(c) General rules for measurement and standards that relate to the dimension and shape of lots; and

(d) Controls on the number of buildings on a record lot.

300.2 Lot dimension and size regulations are intended to ensure the dimensions and shapes of lots created are consistent with the purposes of a zone.

301 SUBSTANDARD LOTS

301.1 A record lot existing prior to the effective date of this title that does not conform with the lot dimension and lot area requirements of the zone in which it is located may be considered a conforming lot for the purposes of building permits and uses provided any building or structure thereon shall meet the development standards of the relevant zone and provided the non-conformity shall not be increased.

301.2 The minimum lot area and lot width requirements for the creation of new residential subdivisions are located in Subtitle D, Chapter 2 and Subtitle E, Chapter 2.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

302 SUBDIVISION REGULATIONS

302.1 Where a lot is divided, the division shall be effected in a manner that will not violate the provisions of this title for yards, courts, other open space, minimum lot width, minimum lot area, floor area ratio, percentage of lot occupancy, parking spaces, or loading berths applicable to that lot or any lot created.

302.2 Each new primary building and structure shall be erected on a separate lot of record in all R, RF, and RA zones, except as follows:

(a) As provided for in the theoretical lot subdivision regulations of Subtitle C § 305.1;

(b) Buildings and structures erected in conformance with an approved campus plan, medical campus plan, or private school plan; and

(c) Buildings and structures erected in conformance with an approved planned unit development.

302.3 No building or structure in any zone may be erected to cover more than one (1) record lot.

302.4 In all other zones, multiple primary buildings may be erected on a single record lot provided that each building, and the buildings as a group, shall meet all of the development standards for the zone.

303 LOT FRONTAGE

303.1 Except for alley lots, all new record lots shall have at least one (1) street lot line on a public street or a public access easement approved by the District Department of Transportation.

303.2 Where a minimum lot width is required, the length of at least one (1) street lot line shall be at least seventy-five percent (75%) of the required lot width.

303.3 New alley record lots shall comply with the following:

(a) Have frontage along a public alley with a minimum alley width of twenty-four feet (24 ft.) and have from the alley access to a street through an alley or alleys not less than twenty-four feet (24 ft.) in width;

(b) Meet the lot area standards applicable under the title of the respective zone and, if no minimum lot area standard is provided, the alley lot shall be a minimum of eighteen hundred square feet (1,800 sq. ft.) of lot area; and

(c) Where existing abutting alley record lots or alley tax lots created on or before May 12, 1958 are combined into a larger alley record lot, the subdivision need not comply with paragraphs (a) and (b) of this subsection.

304 RULES OF MEASUREMENT FOR LOT WIDTH

304.1 Where the lot is an interior lot, lot width shall be determined as follows:

(a) Establish two points by measuring along each side lot line a distance of thirty feet (30 ft.) from the intersection point of each side lot line and the street lot line;

(b) Measure the distance of a straight line connecting the two points described in paragraph (a) of this subsection; and

(c) The distance of the straight line connecting the two points described in paragraph (b) of this subsection shall be the "lot width" of the lot.

304.2 Where the lot is a through lot, lot width shall be determined as follows:

(a) Identify the longest street lot line;

(b) Establish two points by measuring a distance of thirty feet (30 ft.) from the intersection of each side lot line and the street lot line identified in paragraph (a) of this subsection, along each side lot line;

(c) Measure the distance of a straight line connecting the two points described in paragraph (b) of this subsection; and

(d) The distance of the straight line connecting the two points described in paragraph (c) of this subsection shall be the "lot width" of the through lot.

304.3 Where the lot is a corner lot, the lot width shall be determined by measuring the width of the longest street lot line.

304.4 Each new lot being created to be used and occupied by a single dwelling unit or flat building, shall have a street frontage measured along the street lot line a distance equal to at least forty percent (40%) of the required minimum width of lot and in no case less than fourteen feet (14 ft.).

304.5 Each new lot being created to be used and occupied by an apartment house shall have a street frontage measured along the street lot line a distance of not less than thirty feet (30 ft.).

305 THEORETICAL SUBDIVISIONS

305.1 In the R, RF, and RA zones, the Board of Zoning Adjustment may grant, through special exception, a waiver of Subtitle C § 302.1 to allow multiple primary buildings on a single record lot provided that, in addition to the general special exception criteria of Subtitle X, Chapter 9, the requirements of this section are met.

305.2 The number of buildings permitted by this section shall not be limited; provided, satisfactory evidence is submitted that all the requirements of this section are met based on a plan of theoretical subdivision where individual theoretical lots serve as boundaries for assessment of compliance with the Zoning Regulations.

305.3 The following development standards shall apply to theoretical lots:

(a) Side and rear yards of a theoretical lot shall be consistent with the requirements of the zone;

(b) Each means of vehicular ingress and egress to any principal building shall be at least twenty-four feet (24 ft.) in width, exclusive of driveways;

(c) The height of a building governed by the provisions of this section shall be measured from the finished grade at the middle of the building façade facing the nearest street lot line; and

(d) The rule of height measurement in Subtitle C § 305.3(c) shall supersede any other rules of height measurement that apply to a zone, but shall not be followed if it conflicts with the Height Act.

305.4 For a theoretical subdivision application, the following information is required to be submitted to the Board of Zoning Adjustment, in addition to other filing requirements pursuant to Subtitle Y § 300:

(a) Site plans including the following information:

(1) A plat of the record lots proposed for subdivision;

(2) The location of proposed streets and designated fire apparatus roads;

(3) Location of proposed easements;

(4) Lot lines of proposed theoretical lots, and the delineation of the lot lines shared by theoretical lots that will serve as private drives or easements;

(5) Existing grading and proposed grading plans;

(6) Existing landscaping and proposed landscaping plans, including the sizes and locations of all trees on or adjacent to the property on public or private lands;

(7) Plans for the location of building footprints on theoretical lots; and

(8) Required yards (rear, side and front) based on the regulations applicable to a zone or any modifications to regulations provided through this section;

(b) Typical or individual floor plans and elevations for the proposed buildings and structures; and

(c) A table of zoning information including required and proposed development standards.

305.5 Before taking final action on an application under this section, the Board of Zoning Adjustment shall refer the application to the Office of Planning for coordination, review, and report, including:

(a) The relationship of the proposed development to the overall purpose and intent of the Zoning Regulations, and other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government; provided, that the planning considerations that are addressed shall include, but not be limited to:

(1) Public safety relating to police and fire concerns including emergency vehicle access;

(2) The environment relating to water supply, water pollution, soil erosion, and solid waste management;

(3) Public education;

(4) Recreation;

(5) Parking, loading, and traffic;

(6) Urban design; and

(7) As appropriate, historic preservation and visual impacts on adjacent parkland;

(b) Considerations of site planning; the size, location, and bearing capacity of driveways; deliveries to be made to the site; side and rear setbacks; density and open space; and the location, design, and screening of structures;

(c) Considerations of traffic to be generated and parking spaces to be provided, and their impacts;

(d) The impact of the proposed development on neighboring properties; and

(e) The findings, considerations, and recommendations of other District government agencies.

305.6 The proposed development shall comply with the substantive intent and purpose of this title and shall not be likely to have an adverse effect on the present character and future development of the neighborhood.

305.7 The Board of Zoning Adjustment may impose conditions with respect to the size and location of driveways; floor area ratio; height, design, screening, and location

of structures; and any other matter that the Board determines to be required to protect the overall purpose and intent of the Zoning Regulations.

305.8 Any modification to a theoretical subdivision application resulting from an addition to a one (1) dwelling unit building may be reviewed as an expedited review, pursuant to Subtitle Y, Chapter 4.

CHAPTER 4 TREE PROTECTION

400 INTRODUCTION

400.1 Tree protection regulations of this title shall apply only in designated zones and are intended to:

(a) Preserve mature trees in the District to the maximum extent possible;

(b) Prevent adverse impacts on open space, parkland, stream beds, or other environmentally sensitive natural areas that can result from loss of tree cover; and

(c) Encourage improved air quality and stormwater control that result from mature tree cover.

400.2 Tree protection regulations of this chapter are not to be construed to relieve a property owner of their obligation to comply with the provisions of the Urban Forest Preservation Act of 2002, as administered by the Urban Forestry Administration within the District Department of Transportation, and the regulations promulgated under its authority, currently codified in Chapter 37 of the Public Space and Safety Regulations, Title 24 DCMR.

400.3 The tree protection regulations of this chapter are only applicable when required by a specific zone as indicated in this title.

401 TREE PROTECTION REGULATIONS

401.1 The tree protection standards required by specific zones shall apply when:

(a) Constructing a building, accessory building, horizontal building addition, or other structure; or

(b) Causing any other land disturbing activity to the lot that could result in the disturbance of the existing tree canopy.

401.2 Tree protection standards are based on trunk circumference. Trunk circumference shall be measured at a height of four feet-six inches (4 ft. 6 in.) above the ground.

401.3 Construction of a building, accessory building, or an addition to a building, creating any impervious surface area, subdividing any unimproved lot, or subdividing any improved lot so as to increase the number of principal structures thereupon, shall only be permitted as a matter of right subject to the following tree removal limitations:

(a) The restrictions of this section against removing, cutting down, or fatally damaging trees apply only to trees having a circumference of twelve

inches (12 in.) or greater at a height of four feet-six inches (4 ft. 6 in.) above ground;

(b) The prohibitions of this section do not apply to the removal or cutting down of any dead or unhealthy tree or a tree that creates an unsafe condition. The need for removal of any tree shall be certified by a tree care professional certified by the International Society of Arboriculture;

(c) No tree that has a circumference of seventy-five inches (75 in.) or more at a height of four feet-six inches (4 ft. 6 in.) above ground may be removed, cut down, or fatally damaged;

(d) No more than three (3) trees that have a circumference of more than thirty- eight inches (38 in.) at a height of four feet-six inches (4 ft. 6 in.) above ground may be removed, cut down, or fatally damaged and none of these may be located within twenty-five feet (25 ft.) of any building restriction line or lot line abutting a public street; and

(e) The total circumference inches of all trees removed or cut down on a lot may not exceed twenty-five percent (25%) of the total circumference inches of all trees on the lot having a circumference greater than twelve inches (12 in.); provided, that this section does not abrogate the right to remove or cut down up to three (3) trees as provided in paragraph (d) of this subsection; or any tree having a circumference of twelve inches (12 in.) or less at a height of four feet-six inches (4 ft. 6 in.) above ground.

401.4 Where removal or cutting of trees has occurred that would have been prohibited by this section if an application for a building permit had been contemporaneously filed, no building permit shall be issued for a period of five (5) years from such removal or cutting unless the Board of Zoning Adjustment grants a special exception pursuant to Subtitle X, Chapter 9 and Subtitle D § 5202.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 5 PERVIOUS SURFACES

500 INTRODUCTION

500.1 Pervious surface regulations are intended to provide a minimum amount of pervious area and limit the amount of impervious surface on a lot.

501 PERVIOUS SURFACE REQUIREMENT

501.1 The minimum pervious surface percentage shall be as required by the development standards for the R and RF zones.

501.2 The minimum pervious surface percentage requirement shall be applicable only in conjunction with the following:

(a) The construction of a new principal structure;

(b) An addition to a principal or accessory structure, other than a historic resource, that increases the existing lot occupancy at the time of building permit application by ten percent (10%) or more;

(c) The construction of a new accessory structure that increases the existing lot occupancy at the time of building permit application by ten percent (10%) or more; or

(d) An addition to a historic resource that increases the existing lot occupancy at the time of building permit application by twenty-five percent (25%) or more.

502 RULES OF MEASUREMENT FOR PERVIOUS SURFACES

502.1 Only the following shall be considered pervious surfaces for the purposes of calculating the pervious surface area:

(a) Grass, mulched groundcover, all areas of a vegetated roof planted with a growing medium, and other planted areas;

(b) Permeable or pervious pavers or paving that facilitate the infiltration of water into the soil; and

(c) Decks or porches constructed above the surface of the lot that are erected on pier foundations, and that maintain a permeable surface underneath that can facilitate the infiltration of water into the soil.

502.2 Pervious surfaces on a lot shall not include:

(a) On-grade surface treatments used for purposes of recreation (e.g. patios), outdoor stairways, walking, driving and parking areas made of concrete, brick, asphalt, decorative pavers, compacted gravel or other material that does not facilitate the infiltration of water directly into the subsurface of the lot;

(b) The building footprint based on its foundation perimeter, whether located below grade or at grade;

(c) Where a building does not have a foundation, the area of the roof; and

(d) The area dedicated to a below or above grade swimming pool.

502.3 The percent of pervious surface area shall be calculated by dividing the total area of pervious surfaces on the lot by the total area of the lot.

CHAPTER 6 GREEN AREA RATIO

600 INTRODUCTION TO GREEN AREA RATIO

600.1 Green Area Ratio (GAR) is the ratio of the weighted value of landscape elements to land area. The GAR score relates to an increase in the quantity and quality of environmental performance of the urban landscape.

600.2 GAR sets integrated environmental requirements for landscape elements and site design that contribute to the reduction of stormwater runoff, the improvement of air quality, and the mitigation of the urban heat island effect.

600.3 The purposes of the GAR regulations are to:

(a) Implement a value-based system of requirements for environmental site design that provides flexibility in meeting environmental performance standards; and

(b) Promote attractive and environmentally functional landscapes.

600.4 The purpose of this chapter is to:

(a) Provide general guidance about the regulation of GAR requirements;

(b) Define the applicability of GAR;

(c) Set forth the formula for calculating the GAR and define its component parts;

(d) Identify those landscape elements that are included in the GAR, explain how their area is measured, and set forth eligibility conditions;

(e) Establish multipliers for each eligible landscape element;

(f) Indicate what plans and certifications must accompany an application submitted to demonstrate proof of GAR compliance; and

(g) Establish maintenance requirements for the landscape elements that are provided as part of a property's GAR requirement.

601 APPLICABILITY OF GREEN AREA RATIO STANDARDS

601.1 The requirements of this chapter became applicable October 1, 2013.

601.2 Except as provided in Subtitle C § 601.3 and pursuant to the conditions and requirements of this chapter, properties in all zones except R and RF shall provide a GAR as specified in the development standards chapter for the specific zone.

601.3 The GAR standards set forth in this chapter shall apply to all new buildings and to all existing buildings where any additions, interior renovations, or both within any twelve (12) month period exceed one hundred percent (100%) of the assessed value of the building as set forth in the records of the Office of Tax and Revenue as of the date of the building permit application, except:

(a) Buildings that do not require certificates of occupancy;

(b) Municipal wastewater treatment facilities operated by the District of Columbia Water and Sewer Authority;

(c) The interior renovation of an existing building that meets all of the following:

(1) Is located in the Central Employment Area;

(2) Has an existing one hundred percent (100%) lot occupancy prior to the filing of the building permit;

(3) Has an existing roof that cannot support a dead load of four inches (4 in.) of growth medium on the roof; and

(4) The work proposed by the building permit application will not result in a roof capable of supporting a dead load of four inches (4 in.) of growth medium on the roof; or

(d) A historic resource and any additions thereto subject to the provisions of Subtitle C § 601.7.

601.4 Notwithstanding Subtitle C § 601.2 and Subtitle A § 301.4, the provisions of this chapter shall not apply to any application for a building permit:

(a) That has been officially accepted by the Department of Consumer and Regulatory Affairs as being complete prior to October 1, 2013 if the building permit plans are consistent; or

(b) Filed on or after October 1, 2013 if the building permit plans are consistent with:

(1) An unexpired approval of a first-stage, second-stage, or consolidated planned unit development, variance, special exception, design review under the CG or SEFC zones, or concept design by the Historic Preservation Review Board or Commission of Fine Arts; provided the vote to approve occurred prior to October 1, 2013;

(2) An unexpired approval of a variance, special exception, or design review under the CG or SEFC zones granted on or after October 1, 2013, for which a public hearing was held prior thereto; or

(3) An unexpired approval of a first-stage, second-stage, or consolidated planned unit development that was granted after October 1, 2013, but which was set down for a public hearing prior thereto.

601.5 Any approved change or modification to a permit, project or application in Subtitle C §§ 601.3 and 601.4 that results in an increase in impervious surface or lot occupancy of twenty percent (20%) or more shall cause the GAR to be applicable for that portion of a project that is effected by the modification.

601.6 In addition to meeting the applicable burden for obtaining further processing approval under a campus plan to construct or add to a building, the college or university applicant shall demonstrate the extent to which the building or addition meets the GAR standards. Further processing approval shall include the determination by the Zoning Commission that the proposed building is compliant with the intent of the GAR regulations.

601.7 A historic resource and any additions thereto are exempt from the requirement of this chapter as a result of a change of use or an increase of intensity of use, except that this chapter shall be applicable when any addition results in an increase in the gross floor area of the historic resource by fifty percent (50%) or more. For the purposes of this chapter a "historical resource" is a building or structure listed in the District of Columbia Inventory of Historic Sites or a building or structure certified in writing by the Historic Preservation Office as contributing to the character of the historic district in which it is located.

601.8 The cost basis for additions, alterations or repairs to an existing building shall be the amount indicated by the applicant on the application for a building permit.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

602 CALCULATION OF GREEN AREA RATIO

602.1 The GAR shall be calculated using the following formula:

$$\text{GAR} = \frac{\text{(area of landscape element 1 x multiplier)+ (area of landscape element 2 x multiplier)+…}}{\text{Lot Area}}$$

602.2 For the purposes of the above formula and the remainder of this chapter:

(a) The term "landscape element" refers to one (1) of the elements listed in the table in Subtitle C § 602.9, and will be hereafter referred to as "landscape element" or "element";

(b) The term "multiplier" refers the number listed Table C § 602.9 that corresponds to a "landscape element"; and

(c) The "area of landscape element" shall be the square feet of a landscape element, unless the element is a tree or large shrub, in which case "area of landscape element" refers to the element's equivalent square footage as indicated in Subtitle C § 602.7.

602.3 The process for calculating a property's GAR under the formula is as follows:

(a) The area of each landscape element is multiplied by its corresponding multiplier;

(b) The resulting numbers for all landscape elements are added together;

(c) The resulting point total is then divided by the total land area of the lot; and

(d) The product of the equation equals the property's GAR.

602.4 The total points for all permeable paving and enhanced tree growth credits may not count for more than one-third (1/3) of the GAR score for a lot.

602.5 If multiple landscape elements occupy the same area, for example groundcover under a tree or trees and shrubs on an intensive green roof, the full square footage or equivalent square footage of each element may be counted.

602.6 A landscape element must meet the eligibility conditions of Subtitle C § 603.

602.7 Equivalent square feet of tree canopy and large shrubs are identified in the table below:

TABLE C § 602.7: GAR EQUIVALENT SQUARE FEET OF TREE CANOPY AND LARGE SHRUBS

GAR LANDSCAPE ELEMENTS	EQUIVALENT SQ. FT.
Plants, not including grasses, at least 2 feet tall at maturity	9 sq. ft. per plant
Tree canopy for trees 2.5 inches to 6 inches in diameter	50 sq. ft. per tree
Tree canopy for trees 6 inches to 12 inches in diameter	250 sq. ft. per tree
Tree canopy for trees 12 inches to 18 inches in diameter	600 sq. ft. per tree
Tree canopy for trees 18 inches to 24 inches in diameter	1,300 sq. ft. per tree
Tree canopy for trees larger than 24 inches in diameter	2,000 sq. ft. per tree

602.8 Landscape elements of the GAR shall be measured in the following ways:

(a) All trees shall be measured for diameter at a height four feet, six inches (4 ft. 6 in.) above grade when planted and the square footage equivalent based on diameter shall be as established in the table in Subtitle C § 602.7;

(b) For vegetated walls, the area calculated is the height times the width of the area to be covered by vegetation; and

(c) For all other elements other than trees, large shrubs, perennials, and vegetated walls, square footage is determined by the area of a horizontal plane that is over the landscape element.

602.9 Eligible landscape elements are identified in the table below:

TABLE C § 602.9: GAR LANDSCAPE ELEMENTS AND MULTIPLIERS

GAR LANDSCAPE ELEMENTS	MULTIPLIER
Landscaped area (select 1 of the following for each area)	
Landscaped areas with a soil depth of less than 24 inches	0.3
Landscaped areas with a soil depth of 24 inches or more	0.6
Bioretention facilities	0.4
Plantings	
Ground covers, or other plants less than 2 feet tall at maturity	0.2
Plants, not including grasses, at least 2 feet tall at maturity	0.3
Tree canopy for all new trees with mature canopy spread of 40 ft. or less calculated at 50 sq. ft. per tree	0.5
Tree canopy for all new trees with mature canopy spread of greater than 40 ft. calculated at 250 sq. ft. per tree	0.6
Tree canopy for preservation of existing trees 6 inches to 24 inches in diameter	0.7
Tree canopy for preservation of existing trees 24 inches in diameter or larger	0.8
Vegetated wall, plantings on a vertical surface	0.6
Vegetated roofs	
Extensive vegetated roof over at least 2 inches but less than 8 inches of growth medium	0.6
Intensive vegetated roof over at least 8 inches of growth medium	0.8
Permeable paving	
Permeable paving over at least 6 inches and less than 2 feet of soil or gravel	0.4
Permeable paving over at least 2 feet of soil or gravel	0.5
Other	
Enhanced tree growth systems	0.4
Renewable energy generation (area of)	0.5
Water features (using at least 50% recycled water)	0.2

GAR LANDSCAPE ELEMENTS	MULTIPLIER
Bonuses	
Native plant species listed in Subtitle C § 603.9	0.1
Landscaping in food cultivation	0.1
Harvested stormwater irrigation	0.1

603 LANDSCAPE ELEMENT CONDITIONS FOR GREEN AREA RATIO

603.1 No landscape element may be counted towards a property's GAR unless it meets the applicable conditions stated in this section.

603.2 Plantings over the specified soil depths shall meet the required conditions listed in Table C § 602.9: GAR Landscape Elements and Multipliers.

603.3 Bioretention facilities shall be landscaped areas that receive rainwater from surrounding areas and use plants and soils to slow, filter, and infiltrate stormwater runoff. Bioretention facilities include, but are not limited to, rain or rainwater gardens, bioretention planters, or linear cells or swales. These do not include structures made of cement or concrete alone.

603.4 Trees shall meet the following conditions:

(a) All trees shall be at least two and one-half inches (2.5 in.) in diameter measured at a height four feet, six inches (4 ft. 6 in.) above grade when planted and shall be replaced if damaged or killed by any cause; and

(b) All trees shall meet the American Standard for Nursery stock, as set forth by the American Nursery and Landscape Association.

603.5 Vegetated walls shall meet the following conditions:

(a) The maximum calculated vertical dimension shall not exceed thirty feet (30 ft.) unless the vegetated wall features a built-in growth medium;

(b) The area calculated for the vegetated wall features shall be fully covered within a period of two (2) to five (5) years from planting;

(c) The walls shall be at least five feet (5 ft.) from a side or rear lot line; and

(d) Where stormwater harvesting for irrigation is proposed, vegetated walls shall contain a connection to the proposed irrigation system.

603.6 Vegetated roofs shall meet the following conditions:

(a) Designs for vegetated roofs must include plans to provide supplemental water;

(b) Where stormwater harvesting for irrigation is proposed, vegetated roofs shall contain a connection to the proposed irrigation system; and

(c) The groundcover vegetation on a vegetated roof is not additionally eligible for groundcover value towards GAR requirements.

603.7 Water features shall meet the following conditions:

(a) Water features must use harvested rainwater for at least fifty percent (50%) of the annual flow; and

(b) The water features must be under water for at least six (6) out of twelve (12) months.

603.8 Enhanced tree growth systems shall meet the following conditions:

(a) Be at least twenty-four inches (24 in.) deep, under pavement, and adjacent to planting areas; and

(b) Be composed of soils that are not considered contaminated or compacted according to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, approved December 11, 1980 (94 Stat. 2767; 42 U.S.C. §§ 9601 *et seq*.).

603.9 Native plant species shall meet the following conditions:

(a) The plants are listed in the U.S. Fish and Wildlife Service's Native Plants for Wildlife Conservation Landscaping: Chesapeake Bay Watershed guide; or

(b) The applicant provides two (2) references in current publications showing that the plant is native to the region.

603.10 Food cultivation shall meet the following conditions:

(a) All food cultivation areas must be easily accessible to at least one (1) occupant of the building;

(b) All food cultivation areas must have a source of water that can reach all portions of the food cultivation area; and

(c) The cultivation of animals for food is not eligible for GAR credits.

603.11 Harvesting stormwater for irrigation shall meet the following conditions:

(a) If the irrigation type is spray, applicants shall follow treatment standards set forth in the current District Department of Energy and Environment's Stormwater Management Guidebook; and

(b) If the irrigation type is drip, no additional treatment of stormwater is required.

603.12 Plant species shall not be listed on the U.S. Fish and Wildlife Service's list of Plant Invaders of Mid-Atlantic Natural Areas or other lists acceptable to the reviewing agency.

604 SUBMITTAL REQUIREMENTS FOR GREEN AREA RATIO

604.1 This section lists the submittal requirements for demonstrating compliance with a GAR requirement.

604.2 For the purposes of this section, the term "Certified Landscape Expert" means a person who is a:

(a) Commonwealth of Virginia certified landscape architect;

(b) State of Maryland certified landscape architect;

(c) International Society of Arboriculture Certified Arborist;

(d) Maryland's certified Professional Horticulturist; or

(e) Landscape Contractors Association MD-DC-VA Certified Landscape Technician.

604.3 Applicants shall submit a GAR score sheet with the GAR calculated for the given lot at the time of building permit application.

604.4 Applicants shall provide a landscape plan prepared by a Certified Landscape Expert that includes the following information:

(a) GAR elements called out by category and area, which may be provided as a part of the landscape plan or as a separate document;

(b) Lot dimension and size;

(c) Location and areas of all landscape elements with dimensions;

(d) Location, size, and species of all plants used to meet requirements;

(e) Both common and botanical names of all plant material;

(f) Identification of all existing trees that are to be preserved, with their location, trunk diameter at four feet, six inches (4 ft. 6 in.) above grade, canopy radius, and species;

(g) Plans indicating how preserved trees and other plants will be protected during demolition and construction;

(h) Location and dimensions of wheel stops, curbs, or other devices to protect landscaping for landscaped areas adjacent to driveways;

(i) A schematic irrigation and drainage plan and the size and depth of all plant containers for rooftop or container landscaping or areas to be irrigated with rainwater;

(j) Location and size of any trees to be removed;

(k) Specifications for soil improvement; and

(l) Signature of the Certified Landscape Expert who prepared the plans together with verification that plantings and other landscape elements meet the requirements of this chapter.

604.5 Applicants shall provide a landscape maintenance plan prepared and signed by a Certified Landscape Expert that describes how the plantings, water features, and hardscape features will be cared for and maintained including:

(a) Soil preparation;

(b) Use of compost;

(c) Plant replacement;

(d) Irrigation;

(e) Weed and pest control; and

(f) Control of noxious or invasive species.

604.6 The following modifications or substitutions to the landscape elements of an approved landscape plan require a plan revision and approval:

(a) Number of trees, shrubs, or groundcovers;

(b) Location of required plantings or landscape features;

(c) Substitution of species; or

(d) Revisions of any feature that could decrease the planting area or lower the GAR score.

604.7 Except as provided below, approved landscape elements shall be installed in accordance with the approved plan prior to the issuance of the certificate of occupancy.

604.8 Prior to the issuance of the certificate of occupancy, a landscape checklist must be signed by a Certified Landscape Expert, verifying that that landscaping was installed according to the building permit approved by Department of Consumer and Regulatory Affairs.

604.9 The Zoning Administrator may grant a temporary certificate of occupancy when installation of the required landscaping is not currently possible due to weather, season, or site construction subject to the condition that the required landscaping must be installed within four (4) months after the date the temporary certificate is issued.

604.10 The Zoning Administrator may grant up to two (2) extensions of a temporary certificate of occupancy, each for a four (4) month period based on the same conditions of Subtitle C § 604.9.

605 SPECIAL EXCEPTIONS FOR GREEN AREA RATIO

605.1 The Board of Zoning Adjustment may grant, as a special exception, a full or partial reduction in the GAR required under this chapter if, in addition to meeting the general requirements of Subtitle X, Chapter 9, the applicant demonstrates that providing the GAR is impractical as a result of equivalent sustainability measures already being implemented on the property that achieve the intent of the GAR through methods not available through the GAR requirement.

606 MAINTENANCE REQUIREMENTS FOR GREEN AREA RATIO

606.1 All plantings and landscape elements used to calculate a property's GAR must be maintained for the life of the project. If, for any reason, the installed landscape elements fall below the minimum required GAR score, new eligible landscape elements shall be added to compensate and result in the required ratio. These elements are not required to be the same as the submitted plans, so long as the GAR achieved is equivalent.

CHAPTER 7 VEHICLE PARKING

700 INTRODUCTION

700.1 This chapter provides parking regulations intended to:

(a) Ensure that vehicular parking areas are located, accessed, and designed to minimize negative impacts on adjacent property, urban design, the pedestrian environment, and public spaces;

(b) Ensure that vehicle parking areas are safe and accessible; and

(c) Ensure that surface parking areas are planted and landscaped to be compatible with their surroundings, and to reduce environmental impacts.

700.2 Any building permit application for new construction or an addition to an existing building shall be accompanied by a detailed parking plan demonstrating full compliance with this chapter.

700.3 The Zoning Administrator may, at his or her discretion, request that the District Department of Transportation review and make a recommendation regarding any item on the vehicle parking plan prior to approving the building permit application.

700.4 No certificate of occupancy shall be issued unless the vehicle parking spaces have been constructed in accordance with the approved parking plans.

701 MINIMUM VEHICLE PARKING REQUIREMENTS

701.1 The minimum parking requirements set forth in this section shall apply to the R, RF, RA, MU, NC, and PDR zones; and only as specified in zones within Subtitle K.

701.2 Where required, the minimum parking requirements set forth in Subtitle C § 701.5, in addition to any specific parking requirements of this title, shall be met when a new building is constructed.

701.3 Parking standards for uses in the residential use categories are calculated in the number of parking spaces per dwelling unit.

701.4 Parking standards for uses based on gross floor area are calculated in the number of parking spaces per one thousand square feet (1,000 sq. ft.) of gross floor area as described in Subtitle C § 709.

701.5 Except as provided for in Subtitle C § 702, parking requirements for all use categories are as follows (all references to "sq. ft." refers to square feet of gross floor area as calculated in Subtitle C § 709):

TABLE C § 701.5: PARKING REQUIREMENTS

Use Category	Minimum number of vehicle parking spaces
Agriculture, large	1.67 per 1,000 sq. ft.
Agriculture, residential	None
Animal sales, care and boarding	1 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Antennas	None
Arts, design, and creation	1 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Basic utilities	0.33 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Chancery	0.5 per 1,000 sq. ft. in excess of 3,000 sq. ft., or as determined by the Foreign Mission Board of Zoning Adjustment.
Community-based institutional facility	1 per 1,000 sq. ft.
Daytime care	0.5 per 1,000 sq. ft. with a minimum of 1 space required.
Eating and drinking establishments	1.33 per 1,000 sq. ft. in excess of 3,000 sq. ft. A minimum of 1 parking space shall be required for a food delivery service.
Education, college/university	For each building: 2 for each 3 teachers; plus either 1 for each 10 classroom seats or 1 for each 12 stadium seats or 1 for each 10 auditorium seats, whichever is greater, except if a campus plan has been approved by the Zoning Commission or the Board of Zoning Adjustment for the college or university, in which case the parking shall be provided as set forth in the approved campus plan.
Education, private	Elementary and middle school: 2 for each 3 teachers and other employees; High school and accessory uses: 2 for each 3 teachers and other employees, plus either 1 for each 20 classroom seats or 1 for each 10 seats in the largest auditorium, gymnasium or area usable for public assembly, whichever is greater.
Education, public	0.25 per 1,000 sq. ft.
Emergency shelter	0.5 per 1,000 sq. ft.
Entertainment, assembly, and performing arts	2 per 1,000 sq. ft.
Firearm sales	1.33 per 1,000 sq. ft. in excess of 5,000 sq. ft.
Government, large-scale	None
Government, local	0.5 space per 1,000 sq. ft. in excess of 2,000 sq. ft. with a minimum of 1 space required; except: Public recreation and community center: 0.25 space per 1,000 sq. ft. in excess of 2,000 sq. ft. with a minimum of 1

Use Category	Minimum number of vehicle parking spaces
	space required; and Kiosk public library – no requirement.
Medical care	1 per 1,000 sq. ft. in excess of 3,000 sq. ft., with a minimum of 1 space required.
Institutional, general	1.67 per 1,000 sq. ft. in excess of 5,000 sq. ft.
Institutional, religious	1 for each 10 seats of occupancy capacity in the main sanctuary; provided, that where the seats are not fixed, each 7 sq. ft. usable for seating or each 18 in. of bench if benches are provided shall be considered 1 seat.
Lodging	0.5 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Marine	0.5 per 1,000 sq. ft.
Motor vehicle-related	2 per 1,000 sq. ft.
Office	0.5 per 1,000 sq. ft. in excess of 3,000 sq. ft., except: a medical or dental office, clinic, or veterinary hospital: 1 per 1,000 sq. in excess of 3,000 sq. ft.
Parking	None
Parks and recreation	0.5 per 1,000 sq. ft.
Production, distribution, repair	1 per 1,000 sq. ft. in excess of 3,000 sq. ft., except warehouse or storage facility – 1 per 3,000 sq. ft.
Residential, single dwelling unit	1 per principal dwelling.
Residential, flat	1 per 2 dwelling units.
Residential, multiple dwelling unit	1 per 3 dwelling units in excess of 4 units, except: 1 per 2 dwelling units for any R or RF zone; 1 per 6 units of publicly assisted housing, reserved for the elderly and/or handicapped.
Retail	1.33 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Service, general	1.33 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Service, financial	1.33 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Sexually-based business establishment	1.67 per 1,000 sq. ft. in excess of 5,000 sq. ft.
Transportation infrastructure	None
Waste-related services	1 per 1,000 sq. ft.

701.6 If two (2) or more uses are located on a single lot or in a single building and the applicable parking standard for such uses exempts an initial floor area (for example, the first 3,000 sq. ft. of gross floor area), only one exempt floor area may be deducted from the total combined parking requirements for the uses and the exempt floor area shall be pro-rated among uses.

701.7 If two (2) or more uses are located on a single lot or in a single building, the number of parking spaces provided on-site, or off-site in accordance with Subtitle

C § 701.8(b), must equal the total number of parking spaces required for all uses, except when parking is shared among uses as provided in Subtitle C § 701.9. If a single use falls into more than one (1) use category for which different parking minimums apply, the greater number of parking spaces shall apply.

701.8 Required parking spaces shall be located either:

(a) On the same lot as the use or structure they are meant to serve; or

(b) On another lot, subject to the following provisions:

(1) The off-site location shall be a maximum of six hundred feet (600 ft.) from the use or structure that the parking spaces serve, as measured from the nearest lot line;

(2) The off-site location may be located within a different zone, except that the off-site parking location for a use within any zone other than an R or RF zone may not be located within an R or RF zone, except in accordance with the provisions of Subtitle D § 1602.2(o) and Subtitle E § 1102.2(j); and

(3) Spaces provided off-site in accordance with Subtitle C § 701.8(b) shall not serve as required parking for any other use, unless they are shared parking spaces in accordance with Subtitle C § 701.9;

(c) Unless under common ownership, a written agreement shall remain in effect between the owner of the parking area and the owner of the use for which the parking spaces are required (the use);

(d) A draft of the written agreement shall be provided as part of any building permit application associated with either the site of the parking area or the site for which the parking spaces are required. The final, original written agreement shall be filed with the Zoning Administrator prior to the issuance of the first certificate of occupancy for the use and any amendment or successor agreement must be filed no later than ten (10) days following execution by the parties;

(e) The Zoning Administrator shall maintain a file of all written agreements and amendments for the lot where the use is located and the lot providing the required parking spaces; and

(f) The Board of Zoning Adjustment may allow off-site parking spaces to be located elsewhere than as permitted pursuant to Subtitle C § 701.8(b)(1) in accordance with the general special exception requirements of Subtitle X, subject to:

(1) The applicant's demonstration that the accessory parking spaces shall be located so as to furnish reasonable and convenient

parking facilities for the occupants or guests of the building or structures that they are designed to serve; and

(2) The Board of Zoning Adjustment may impose conditions as to screening, coping, setbacks, fences, the location of entrances and exits, or any other requirement it deems necessary to protect adjacent or nearby property. It may also impose other conditions it deems necessary to assure the continued provision and maintenance of the spaces.

701.9 Parking spaces, whether required or not, may be shared among more than one (1) use, whether the uses are on the same lot or on separate lots. Parking spaces that are shared among more than one (1) use shall be subject to the following conditions:

(a) The spaces shall not serve as required parking for any other use during the days and times each use they serve is in operation;

(b) Parking may be shared:

(1) Between uses and a parking site within the same zone; or

(2) Between uses and a parking site within an R and RF zone; or

(3) Between a use in an R or RF zone and a parking site in any other zone; but

(4) May not be shared between a parking site within an R or RF zone and a use located in any other zone;

(c) Unless under common ownership, a written agreement shall remain in effect between the owner of the parking area and the owner of the use for which the parking spaces are required (the use), and shall include the obligation set forth in Subtitle C § 701.9;

(d) A draft of the written agreement shall be provided as part of any building permit application associated with either the site of the parking area or the site for which the parking spaces are required. The final, original written agreement shall be filed with the Zoning Administrator prior to the issuance of the first certificate of occupancy for the use and any amendment or successor agreement must be filed no later than ten (10) days following execution by the parties; and

(e) The Zoning Administrator shall maintain a file of all written agreements and amendments for the lot where the use is located and the lot providing the required parking spaces.

701.10 The number of required parking spaces shall not be reduced below the minimum required as long as the use that generated that requirement remains in existence.

701.11 Dedicated car-share parking spaces may be counted toward fulfillment of a minimum parking requirement.

701.12 Uses governed by a campus plan are subject to the minimum parking requirement approved by the Zoning Commission and are not subject to the parking requirements otherwise applicable.

701.13 Parking spaces provided in an amount which exceeds that required by this section shall be subject to the provisions of Subtitle C § 707.

701.14 Required parking spaces shall be provided and maintained so long as the structure that the parking spaces are designed to serve exists.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

702 EXEMPTIONS FROM MINIMUM PARKING REQUIREMENTS

702.1 Within any zone other than an R or RF zone, the minimum vehicle parking requirement identified in the table of Subtitle C § 701.5 shall be reduced by fifty percent (50%) for any site which is located:

(a) Within one-half mile (0.5 mi.) of a Metrorail station that is currently in operation or is one for which a construction contract has been awarded; or

(b) Within one-quarter mile (0.25 mi.) of streetcar line that is currently in operation or for which a construction contract has been awarded; or

(c) Within one-quarter mile (.25 mi.) of one (1) of the following Priority Corridor Network Metrobus Routes located entirely or partially within the District of Columbia, provided that the property is on a street on which participation in a District Residential Parking Permit program is not permitted, or is otherwise exempted from a District Residential Parking Permit program:

(1) Georgia Avenue/7th Street (Routes 70, 79);

(2) Wisconsin Avenue/Pennsylvania Avenue (Routes 31, 32, 34, 36, 37, 39);

(3) Sixteenth Street (Routes S1, S2, S4, S9);

(4) H Street/Benning Road (Routes X1, X2, X3, X9);

(5) U Street/Garfield (Routes 90, 92, 93);

(6) Anacostia/Congress Heights (Routes A2, A4, A5, A6, A7, A8, A9, A 42, A46, A48);

(7) Fourteenth Street (Routes 52, 53, 54);

(8) North Capitol Street (Route 80); and

(9) Rhode Island Avenue (Route G8).

702.2 Any applicant claiming a reduction in required parking in accordance with Subtitle C § 702.1 shall provide evidence to the Zoning Administrator that meets at least one (1) of the locational requirements of Subtitle C §§ 702.1(a), (b), or (c).

702.3 Vehicle parking shall not be required:

(a) For a detached single dwelling unit, an attached single dwelling unit, rowhouse, or flat within the R and RF zones, if the lot does not have access to an open, improved, and public alley with a right of way of ten feet (10 ft.) width minimum;

(b) Within the D zones, except:

(1) Parking requirements applicable to a disposition lot as defined in the Urban Renewal Plan for the Downtown Urban Renewal Area shall be as specified in that plan; and

(2) Within the D-5 zone west of 20th Street N.W., parking shall be required in accordance with Subtitle C §§ 701.5 and 702.1;

(c) Within the SEFC or USN zones;

(d) On any property within the CG zones that has frontage on or is located east of South Capitol Street;

(e) Within the MU-11 zone; or

(f) For structures erected on Kingman and Heritage Islands, for which the construction of parking spaces shall be prohibited except for handicap spaces.

703 SPECIAL EXCEPTIONS FROM MINIMUM PARKING NUMBER REQUIREMENTS

703.1 This section provides flexibility from the minimum required number of parking spaces when the provision of the required number of spaces would be contrary to other District of Columbia regulations; or impractical or unnecessary due to the

shape or configuration of the site, a lack of demand for parking, or proximity to transit.

703.2 The Board of Zoning Adjustment may grant a full or partial reduction in number of required parking spaces, subject to the general special exception requirements of Subtitle X, and the applicant's demonstration of at least one (1) of the following:

(a) Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot in accordance with Subtitle C § 701.8;

(b) The use or structure is particularly well served by mass transit, shared vehicle, or bicycle facilities;

(c) Land use or transportation characteristics of the neighborhood minimize the need for required parking spaces;

(d) Amount of traffic congestion existing or which the parking for the building or structure would reasonably be expected to create in the neighborhood;

(e) The nature of the use or structure or the number of residents, employees, guests, customers, or clients who would reasonably be expected to use the proposed building or structure at one time would generate demand for less parking than the minimum parking standards;

(f) All or a significant proportion of dwelling units are dedicated as affordable housing units;

(g) Quantity of existing public, commercial, or private parking, other than on-street parking, on the property or in the neighborhood, that can reasonably be expected to be available when the building or structure is in use;

(h) The property does not have access to an open public alley, resulting in the only means by which a motor vehicle could access the lot is from an improved public street and either:

(1) A curb cut permit for the property has been denied by the District Department of Transportation; or

(2) Any driveway that could access an improved public street from the property would violate any regulation of this chapter, of the parking provisions of any other subtitle in the Zoning Regulations, or of Chapters 6 or 11 of Title 24 DCMR;

(i) The presence of healthy and mature canopy trees on or directly adjacent to the property; or

(j) The nature or location of a historic resource precludes the provision of parking spaces; or providing the required parking would result in significant architectural or structural difficulty in maintaining the integrity and appearance of the historic resource.

703.3 Any reduction in the required number of parking spaces shall be only for the amount that the applicant is physically unable to provide, and shall be proportionate to the reduction in parking demand demonstrated by the applicant.

703.4 Any request for a reduction in the minimum required parking shall include a transportation demand management plan approved by the District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval.

704 MINIMUM PARKING REQUIREMENTS FOR ADDITIONS TO EXISTING BUILDINGS OR STRUCTURES

704.1 An addition to an existing building triggers additional parking requirements only when the gross floor area of the building is expanded or enlarged by twenty-five percent (25%) or more beyond the gross floor area on the effective date of this title, or in the case of a new building, the gross floor area used to calculate the initial parking requirement. The additional minimum parking required shall be calculated based upon the entire gross floor area added.

704.2 Notwithstanding Subtitle C § 704.1, additions to historic resources shall be required to provide additional parking spaces for an addition only if:

(a) The addition results in at least a fifty percent (50%) increase in gross floor area beyond the gross floor area existing on the effective date of this title; and

(b) The resulting requirement is at least four (4) parking spaces.

705 MINIMUM PARKING REQUIREMENTS FOR AN EXPANSION OR CHANGE OF USE WITHIN AN EXISTING BUILDING OR STRUCTURE

705.1 Additional parking spaces shall be required only when the minimum number of parking spaces required for the new use exceeds the number of spaces required for the prior use that occupied the same gross floor area.

705.2 When determining the required number of additional required parking spaces, it shall be assumed that the previous use provided at least the minimum number of spaces required.

705.3 A historic resource shall not be required to provide additional parking spaces for a change in use without expansion.

705.4 If a use operates solely outside of a building or structure, any expansion of that use shall conform to the applicable parking standards.

706 MAXIMUM PARKING REQUIREMENTS

706.1 The maximums land area for all newly constructed parking areas, and for parking areas that increase the number of parking spaces or the land area by twenty-five percent (25%) or more, shall not exceed one hundred thousand square feet (100,000 sq. ft.).

706.2 The Board of Zoning Adjustment may grant, as a special exception, an increase in the maximum size of parking area allowed under Subtitle C § 706.1(a) or the maximum parking standards of a land use subtitle if, in addition to meeting the general requirements of Subtitle X, the applicant demonstrates that a transportation demand management plan approved by the District Department of Transportation will be implemented. The Board of Zoning Adjustment may impose as a condition of its approval, requirements as to screening, landscaping, setbacks, fences, the location of entrances and exits, or any other requirement it deems necessary to protect adjacent or nearby property.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

707 MITIGATION FOR PARKING SIGNIFICANTLY IN EXCESS OF THE MINIMUM REQUIREMENT

707.1 For the purposes of this section, the term "excess parking space" is defined as all vehicle parking spaces provided in excess of the minimum parking requirement for that location and use pursuant to Subtitle C § 701, but shall not include either parking spaces to be dedicated to an off-site use in accordance with the provisions of Subtitle C §§ 701.7 and 701.8, or dedicated car-share spaces provided in accordance with the provisions of Subtitle C § 708.

707.2 For the purposes of this section, the term "minimum parking required" shall mean:

(a) The minimum required number of parking spaces pursuant to Subtitle C § 701.5 for the relevant use(s); or

(b) Within the D and CG zones, where there is no minimum parking requirement, the minimum number of parking spaces otherwise required for that use pursuant to Subtitle C § 701.5.

707.3 The provision of excess parking spaces shall require the following transportation demand management features:

(a) For any site for which the parking requirement of Subtitle C § 701.5 is twenty (20) parking spaces or greater, any excess parking spaces greater than two times (2 X) the minimum parking required for that use shall require the following transportation demand management measures:

(1) Bicycle parking spaces provided in accordance with the provisions of Subtitle C § 801 at a rate of one (1) bicycle parking space for each three (3) excess parking spaces, to a maximum of one-hundred (100) additional bicycle parking spaces, with such bicycle parking spaces being provided at the same ratio of long and short term spaces as required in Subtitle C § 802.1;

(2) One (1) tree for every ten (10) excess parking spaces, with such trees to be planted within public space in the Ward in which the site is located, at a location to be determined by the Urban Forestry Division of the District Department of Transportation, and of a species and size consistent with industry standards for street trees;

(3) One (1) on-site or publicly accessible electric car charge station for every twenty (20) excess parking spaces;

(4) One (1) car share space to be provided in accordance with the provisions of Subtitle C §§ 708.3 through 708.4 for every twenty (20) excess parking spaces, to a maximum of ten (10) car share spaces; and

(5) The GAR required for the site pursuant to Subtitle C, Chapter 6 shall be increased by a rate of .001 for each two (2) excess parking spaces, to a maximum of an additional 0.1;

(b) In addition, the provision of more than one hundred (100) excess parking spaces shall require the provision of one (1) Capital Bikeshare station with a minimum of twelve (12) bike stalls, and the provision of more than two hundred (200) excess parking spaces shall require the provision of two (2) Capital Bikeshare stations with a minimum of twelve (12) bike stalls each, or the provision of one (1) Capital Bikeshare station with a minimum of twenty-four (24) bike stalls. These shall be located on site or at an off-site location within the Ward at a location to be determined by the District Department of Transportation;

(c) Requirements of this section shall be provided in full prior to the issuance of a certificate of occupancy for the site;

(d) Any requirement of this section shall be in addition to any other requirements of Subtitle C, Chapters 7 and 8; and

(e) The Board of Zoning Adjustment may grant, as a special exception, relief from Subtitle C §§ 707.3(a) and (b) if, in addition to meeting the general requirements of Subtitle X, the applicant demonstrates that:

(1) Mitigation requirements for the excess parking spaces are not required due to other transportation demand management, bike way, or pedestrian way improvement commitments of the applicant, to be provided prior to the issuance of a certificate of occupancy for the building or site containing the parking; or

(2) The excess parking spaces will serve a District-identified need for parking in the community, and will be entirely shared (non-dedicated) parking spaces available at regular market rates to the public at all times that the facility with the parking is open.

708 CAR-SHARE PARKING SPACE PROVISIONS

708.1 Dedicated car-share parking spaces may be counted toward fulfillment of any minimum parking requirement in any zone other than an R or RF zone.

708.2 Up to two (2) dedicated car share spaces provided in accordance with this provision may each count as three (3) required parking spaces for the purposes of calculating the provision of required parking pursuant to Subtitle C § 701.5.

708.3 Any car-share space provided pursuant to Subtitle C § 708.2 shall be made available to any car-share organization with a valid business license, for the purpose of providing car-share services for its subscribers, in accordance with the following provisions:

(a) The car-share spaces shall be accessible at all times to subscribers who may or may not be residents or employees of uses on the lot. Reasonable security measures, such as keyless entry devices, may be used; and

(b) The following information shall be provided to the Zoning Administrator:

(1) Written notice of the number and location of car-share spaces that will be available;

(2) A D.C. Surveyor's Plat of the property;

(3) A floor plan or site plan of the parking area clearly identifying the required car-share spaces;

(4) The square and lot number, address, property owner contact information; and

(5) Any other pertinent information as determined by the Zoning Administrator.

708.4 Within any R or RF zone, up to two (2) car-share spaces may be provided on the property, subject to the following provisions:

(a) Any car-share space is provided in addition to any required parking space for the principal dwelling;

(b) The lot has access to an open and improved alley with a width of ten feet (10 ft.) minimum;

(c) If one (1) car-share space is to be provided on the property, the property has either:

(1) A width along the property line from which access to the car-share space is to be provided of at least twenty-five feet (25 ft.); or

(2) A minimum of fifteen feet (15 ft.) between the parking area and the principal dwelling;

(d) If two (2) car-share spaces are to be provided on the property, the property has either:

(1) A width along the property line from which access to the car-share space is to be provided of at least thirty-five feet (35 ft.); or

(2) A minimum of ten feet (10 ft.) between the parking area and the principal dwelling; and

(e) The car-share spaces shall be accessible at all times to subscribers who may or may not be residents on the lot.

709 RULES OF CALCULATION

709.1 Gross floor area shall be as defined in Subtitle B, except that for purposes of calculating off-street parking requirements:

(a) In all zones, gross floor area shall not include floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space or space devoted exclusively to bicycle storage or support (lockers and showers) facilities;

(b) In all zones, gross floor area shall include penthouse habitable space except that recreation space for residents or tenants of the building or other ancillary space associated with a rooftop deck shall not be included;

(c) In the R, RF, RA, and MU-11 through MU-14 zones, gross floor area shall include cellar floor area devoted to uses within the Government, Local use;

(d) In the MU-3, MU-4, MU-7, MU-17, MU-24, MU-25, MU-26, MU-27, NC-1, NC-2, NC-3, NC-4, NC-6, NC-7, NC-8, NC-9, NC-12, NC-14, NC-15, NC-16, RC-2, ARTS-1, ARTS-3, PDR-1, PDR-4, PDR-5, PDR-6, and PDR-7 zones, gross floor area shall include cellar floor area devoted to uses within following use groups:

(1) Animal sales, care and boarding;
(2) Arts, design and creation;
(3) Chancery;
(4) Eating and drinking establishments;
(5) Firearm sales;
(6) Medical care;
(7) Office;
(8) Retail; and
(9) Service, general and financial; and

(e) In the PDR-2 and PDR-3 zones, gross floor area shall include the cellar floor area devoted to uses within the Office and Chancery use groups.

709.2 When an initial amount of floor area or number of dwelling units is exempted, that amount or number is subtracted from the total before the minimum parking requirement is calculated.

709.3 Calculations of parking spaces that result in a fractional number of one-half (0.5) or more shall be rounded up to the next whole number. Any fractional result of less than one-half (0.5) shall be rounded down to the previous whole number.

709.4 The number of teachers or employees shall be computed on the basis of the greatest number of persons to be employed at any one period during the day or night, including persons having both full-time and part-time employment.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

710 LOCATION RESTRICTIONS

710.1 The intent of this section is to prevent negative impacts on neighboring property from excessive parking, minimize vehicle-pedestrian conflicts, respect the pedestrian environment, foster good urban design, and provide space for active uses to line parking structures.

710.2 Vehicle parking spaces shall be located:

(a) Within or below a building or structure; except in all zones except for any R, RF, or Subtitle K zones, parking spaces provided within a structure shall be located at least twenty feet (20 ft.) from all lot lines that abut public streets or a waterfront setback required pursuant to Subtitle C

§ 1102, unless the surface of the parking spaces is at least ten feet (10 ft.) below grade, at all points along the building frontage; and

(b) On an open area of the lot, except:

(1) Between a building restriction line and a front lot lone;

(2) In any zone other than a PDR zone, surface parking spaces shall not be located within a front yard. A building used solely as a parking attendant shelter shall not trigger this restriction;

(3) Surface parking spaces shall be permitted only as a special exception pursuant to Subtitle C § 1102.5 if located:

(A) Anywhere on a lot within the MU-11 through MU-14; or

(B) Within a waterfront setback area pursuant to Subtitle C § 1102;

(4) Parking spaces and access isles for and buildings, structures or uses adjacent to the Anacostia River, Potomac River, or Washington Channel shall be sited and designed in accordance with the requirements of Subtitle C § 1102; or

(5) Within all R and RF zones of, any surface parking lot for more than ten (10) parking spaces shall be located a minimum of six feet (6 ft.) from any property line, with the space between the surface parking lot and the property line providing landscaping and screening consistent with Subtitle C §§ 714 and 715.

710.3 The Board of Zoning Adjustment may allow surface parking spaces to be located anywhere on the lot upon which the building or structure is located in accordance with the general special exception requirements of Subtitle X, and the applicant's demonstration of the following:

(a) The Board of Zoning Adjustment shall determine that it is not practical to locate the spaces in accordance with Subtitle C § 710.2 for the following reasons:

(1) Unusual topography, grades, shape, size, or dimensions of the lot;

(2) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets;

(3) Traffic hazards caused by unusual street grades; or

(4) The location of required parking spaces elsewhere on the same lot or on another lot would result in more efficient use of land, better

design or landscaping, safer ingress or egress, and less adverse impact on neighboring properties;

(b) The accessory parking spaces shall be located so as to furnish reasonable and convenient parking facilities for the occupants or guests of the building or structures that they are designed to serve; and

(c) The Board of Zoning Adjustment may impose conditions as to screening, coping, setbacks, fences, the location of entrances and exits, or any other requirement it deems necessary to protect adjacent or nearby property. It may also impose other conditions it deems necessary to assure the continued provision and maintenance of the spaces.

711 ACCESS REQUIREMENTS

711.1 Approval of a driveway under this title does not constitute permission for a curb cut in public space. An applicant for a driveway with a curb cut in public space shall have the responsibility to obtain all other necessary approvals from the District Department of Transportation.

711.2 All required parking spaces, driveways, and entrances that provide access to parking areas, shall conform to the requirements of this section.

711.3 All required parking spaces, other than as permitted in Subtitle C § 711.4, shall be accessible at all times from a driveway accessing either:

(a) An improved street, except as restricted in Subtitle C § 711.9; or

(b) An improved alley or alley system with a minimum width of ten feet (10 ft.).

711.4 An automated parking garage shall meet the requirements of Subtitle C § 711.3, although individual parking spaces provided as part of the automated parking garage do not.

711.5 Within twenty feet (20 ft.) of all street lot lines, a driveway shall be at least eight feet (8 ft.) wide and not more than ten feet (10 ft.) wide if it:

(a) Provides access to parking spaces serving a single dwelling unit or flat;

(b) Provides access to no more than two (2) parking spaces for any use; or

(c) Provides shared access across public or private property to no more than three (3) single dwelling units or flats.

711.6 Within twenty feet (20 ft.) of all street lot lines, a driveway other than as described in Subtitle C § 711.5 shall be:

(a) At least twelve feet (12 ft.) wide for one-way traffic or twenty feet (20 ft.) wide for two-way traffic; and

(b) Not more than twenty-four feet (24 ft.) wide.

711.7 When parking spaces are provided within a building or structure, all vehicular entrances or exits shall be set back at least twelve feet (12 ft.) from the center line of any adjacent alley for a minimum height of ten feet (10 ft.).

711.8 A driveway that provides access to required parking spaces shall have a maximum grade of twelve percent (12%) with a vertical transition at the property line.

711.9 Driveways to required parking spaces for groups of three (3) or more row dwellings that are constructed concurrently on adjacent lots shall be governed by the following provisions:

(a) Access to vehicle parking from a public or private street to individual rowhouses shall not be permitted; and

(b) For vehicle parking provided on a separate lot in accordance with Subtitle C § 701.8, the Board of Zoning Adjustment may allow by special exception a single driveway access from a public or private street in accordance the requirements of Subtitle X and the following provisions:

(1) There is no alternative access to on-site parking spaces through open and improved existing or proposed alleys;

(2) The Board of Zoning Adjustment determines that the parking access does not impose traffic hazards or any adverse impact on the surrounding neighborhood; and

(3) The Board of Zoning Adjustment may impose conditions as to the location of the parking access, screening, or any other requirement it deems necessary to ensure safety and to protect adjacent or nearby property.

711.10 Required parking spaces for a motor vehicle-related use category may be arranged so that all spaces are not accessible at all times. All parking spaces provided under this subsection shall be designed and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicle without moving any other vehicle onto public space.

712 SIZE AND LAYOUT REQUIREMENTS

712.1 All required parking spaces and parking aisles shall conform to the dimension requirements of this section, except as provided in Subtitle C § 717.

712.2 An automated parking garage is exempt from the requirements of this section.

712.3 At least fifty percent (50%) of the required parking spaces must meet the minimum full-sized parking space standards of Subtitle C § 712.5. All other spaces must meet the minimum compact parking space standards in Subtitle C § 712.6.

712.4 Parking spaces provided on the same lot as a historic resource shall meet the minimum dimensional requirements of Subtitle C § 712.6.

712.5 The minimum dimensions for full-sized parking spaces and aisles are as follows:

TABLE C § 712.5: MINIMUM DIMENSIONS FOR FULL-SIZED PARKING SPACES AND AISLES

Parking Angle	Stall Width	Depth of Stalls Perpendicular to Aisle	One-Way Drive Aisle Width	Two-Way Drive Aisle Width
45º	9 ft.	17.5 ft.	17 ft.	N/A
60º	9 ft.	19 ft.	17 ft.	N/A
90º	9 ft.	18 ft.	20 ft.	20 ft.
Parallel	22 ft.	8 ft.	12 ft.	20 ft.

712.6 The minimum dimensions for spaces and aisles exclusively for compact parking spaces are as follows:

TABLE C § 712.6: MINIMUM DIMENSIONS FOR COMPACT PARKING SPACES AND AISLES

Parking Angle	Stall Width	Depth of Stalls Perpendicular to Aisle	One-Way Drive Aisle Width	Two-Way Drive Aisle Width
45º	8 ft.	16.5 ft.	16 ft.	N/A
60º	8 ft.	17 ft.	16 ft.	N/A
90º	8 ft.	16 ft.	20 ft.	20 ft.
Parallel	20 ft.	8 ft.	12 ft.	20 ft.

712.7 All parking spaces and access ways to and from spaces shall have a minimum vertical clearance of six feet, six inches (6 ft., 6 in.).

712.8 Above grade parking areas shall be designed so that no vehicle shall project over any lot line, front setback line, or building restriction line.

712.9 Except on a lot that only has one (1) or two (2) dwelling units:

(a) Wheel bumper guards, curbs, guard rails, or screening shall be installed between the property line and the perimeter of the parking area; and

(b) All parking areas and spaces shall be designed and operated so that sufficient access and maneuvering space is available to permit the

parking and removal of any vehicle without moving any other vehicle onto public space.

712.10 All individual compact parking spaces shall be clearly labelled as such.

713 MAINTENANCE REQUIREMENTS

713.1 All parking areas, including access aisles, driveways, and ramp areas, shall be surfaced and maintained with an all-weather surface. In addition to traditional impervious surfaces, allowable all-weather surfaces include porous (or pervious) concrete, porous asphalt, and mechanically reinforced grass. Gravel and grass that is not mechanically reinforced are not allowed as surface materials required under this subsection.

713.2 All parking spaces shall be clearly striped according to the dimensions specified in Subtitle C § 712. Durable all-weather materials shall be used for striping. Striping shall be maintained for as long as the parking spaces are in use.

713.3 A parking lot serving a use in the retail or eating and drinking establishment use category shall provide at least one (1) litter receptacle within the parking area.

714 SCREENING REQUIREMENTS FOR SURFACE PARKING

714.1 Screening shall be required for any external surface parking spaces located:

(a) Within a zone other than a PDR zone; or

(b) In a PDR zone and abutting property that is not within a PDR zone; and

(c) Residential uses on lots with a maximum of three (3) dwelling units are not required to be screened.

714.2 Screening of external surface parking shall be provided in accordance with the following provisions:

(a) Screening shall be provided around the entire perimeter of the surface parking area;

(b) Gaps in the screening are allowed only to provide driveways and pedestrian exits or entrances that open directly onto a street, sidewalk or alley. No individual gap may exceed twenty feet (20 ft.) in width; and

(c) The screening shall be either:

(1) A wall or solid fence at least forty-two (42) inches high; or

(2) Evergreen hedges or evergreen growing trees that are thickly planted and maintained, and that are at least forty-two (42) inches in height when planted, and maintained in perpetuity.

714.3 The Board of Zoning Adjustment may grant, as a special exception, a modification or waiver of these screening requirements. In addition to the general requirements of Subtitle X, the Board of Zoning Adjustment may consider:

(a) Impacts on the pedestrian environment within adjacent streets, sidewalks, and other public areas;

(b) Existing vegetation, buildings or protective and screening walls located on adjacent property;

(c) Existing topographic conditions;

(d) Traffic conditions; and

(e) In granting a modification or waiver, the Board of Zoning Adjustment may require any special treatment of the premises that it deems necessary to prevent adverse impacts on neighboring properties or the general public.

715 LANDSCAPING REQUIREMENTS FOR SURFACE PARKING LOTS

715.1 Surface parking lots with ten (10) or more parking spaces shall conform to the landscaping, tree canopy cover, and lighting requirements of this section:

715.2 A minimum of ten percent (10%) of the total area devoted to parking, including aisles and driveways shall be covered by landscaped areas planted with trees and shrubs.

715.3 The landscaping shall be maintained in a healthy, growing condition. Dead or dying plant material shall be replaced.

715.4 The landscaping shall be designed and maintained to accept storm water runoff from the surrounding parking area.

715.5 All end islands of parking rows longer than nine (9) parking spaces, and all areas otherwise not used for ingress and egress, aisles, and parking spaces shall be landscaped.

715.6 The following shall not count towards the landscape area requirements of this section:

(a) Landscape areas of less than one (1) foot in any horizontal dimension;

(b) Landscaping around the perimeter of the parking area greater than a distance of six feet (6 ft.) from the parking pavement area;

(c) Moveable planters;

(d) Any landscape area with a soil depth of less than one (1) foot; or

(e) Permeable surface area used for parking or access to parking, or otherwise incapable of being landscaped.

715.7 The parking area shall be provided with the equivalent of one (1) canopy tree per five (5) parking spaces subject to the following requirements:

(a) Trees of the species listed in the District Department of Transportation Green Infrastructure Standards shall be planted with the following conditions:

(1) For every tree planted from the list of small trees, a tree from the list of medium or large tress, or a substitute approved by the Urban Forestry Administration (UFA), shall be planted;

(2) Species not on the list in Green Infrastructure Standards may be planted if determined by the UFA to be equivalent to species from the list; and

(3) The Zoning Administrator may accept any written communication from the UFA as approval of a tree species;

(b) Trees shall be planted in areas that are included in the landscaped areas required by Subtitle C §§ 715.4 and 715.5; and

(c) New trees, or existing trees that are retained, shall count toward the tree requirement based on the following:

(1) Preservation of existing trees and vegetation shall be given special consideration, contingent upon adequate tree preservation techniques being applied to ensure a high survival rate;

(2) All newly planted trees shall have a minimum diameter of two and one-half inches (2.5 in.) in diameter;

(3) All trees shall be planted or retained in a space that provides a minimum of five hundred (500) cubic feet of soil volume per tree;

(4) Trees shall be planted a minimum of four feet (4 ft.) from any protective barrier, such as curbs or wheel stops with no horizontal dimension less than four feet (4 ft.) and a minimum depth of three feet (3 ft.); and

(5) If tree planting areas are located adjacent to vehicle overhangs, trees shall be planted within one foot (1 ft.) of lines extending from the stripes between parking spaces.

715.8 Any lighting used to illuminate a parking area or its accessory buildings shall be arranged so that all direct light rays are confined to the surface of the parking area.

715.9 The Board of Zoning Adjustment may grant, as a special exception, a full or partial reduction in the landscape standards for parking lots required by this section if, in addition to meeting the general requirements of Subtitle X, the applicant demonstrates that complying with the landscape standards is impractical because of size of lot, or other conditions relating to the lot or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

716 DRIVE-THROUGH QUEUING LANES

716.1 A driveway serving as a motor vehicle queuing lane shall conform to the standards in this section.

716.2 The queuing lane shall provide a minimum of five (5) queuing spaces before the first service location and one (1) queuing space after the last service location before entering public space.

716.3 No queuing space may be located within twenty feet (20 ft.) of any street lot line.

716.4 Each queuing space shall be a minimum of ten feet (10 ft.) in width by nineteen feet (19 ft.) in length and shall constitute an exclusive queuing lane.

716.5 The queuing lane shall not be the only entry or exit lane on the premises.

716.6 Any lighting used to illuminate the queuing lane shall be so arranged that all direct light rays are confined to the surface of the queuing lane.

717 EXCEPTIONS FROM PARKING SIZE, LAYOUT AND MAINTENANCE REQUIREMENTS FOR ATTENDANT PARKING

717.1 In an MU or D zone, the Zoning Administrator may waive the parking space dimensional, size, design, and striping requirements stated in Subtitle C §§ 712.4 through 712.7, and 713 for parking located within a building if:

(a) The parking area is a minimum of twenty-thousand square feet (20,000 sq. ft.);

(b) A minimum of two hundred eighty-five square feet (285 sq. ft.) of parking area will be provided for each parking space;

(c) Residential uses will occupy no more than twenty percent (20%) of the gross floor area of the building or structure;

(d) Parking will be managed from 7:00 a.m. to 7:00 p.m. by employed attendants to park the vehicles within the parking area; and

(e) No individual area measuring less than seven feet (7 ft.) by fourteen feet (14 ft.), exclusive of column obstructions, shall be used to park motor vehicles.

717.2 The request for a waiver under Subtitle C § 717.1 must be accompanied by:

(a) A written parking plan submitted to the Zoning Administrator that demonstrates how parking shall be provided if attendant parking is discontinued; and

(b) A certification by the building owner that the parking will be operated in conformance with Subtitle C § 717.3.

717.3 Parking granted a waiver pursuant to Subtitle C § 717.1 shall be operated in conformance with the following conditions:

(a) A permanent sign shall be posted at each entrance in full view of the public that states: "Attendant assisted parking is required by the District of Columbia Zoning Regulations," and that states the hours during which attendant parking is provided;

(b) The sign shall have a white background, with black lettering that is at least two inches (2 in.) in height;

(c) All parking areas and spaces provided under this subsection shall be designed and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicle without moving any other vehicle onto public space;

(d) Where aisles are provided, they shall meet the design requirements stipulated in Subtitle C § 712; and

(e) If attendant parking is discontinued, the parking spaces shall thereafter conform to the requirements in Subtitle C §§ 712.4 through 712.7, and 713 and the parking area shall be operated in conformance with the parking plan required by Subtitle C § 717.2(a). The purpose of the parking plan is to demonstrate that all unattended parking spaces will meet the size and layout requirements of these subsections, and that any minimum parking requirement will be met.

718 TEMPORARY SURFACE PARKING LOTS FOR BALLPARK

718.1 A temporary surface parking lot for the Ballpark shall be permitted on Squares 603, 605, 657, 658, 660, 661, 662, 662E, 664, 664E, 665, 700, 701, 707, 708, 708E, 708S, 744S, and 882; Square 658, Lot 7; Square 767, Lots 44-47; Square 768, Lots 19-22; and Square 769, Lots 18-21 ("the subject squares"), when permitted by the regulations of the relevant land use subtitle, and subject to the provisions of this section.

718.2 The cumulative total of all temporary surface parking spaces for which a valid building permit has been issued pursuant to this section shall not exceed three thousand seven hundred seventy-five (3,775) parking spaces, except as provided in Subtitle C § 718.7.

718.3 Any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2018.

718.4 The application for a building permit for matter-of-right construction shall include a detailed accounting demonstrating that the circumstances described in Subtitle C § 718.7 do not apply.

718.5 No certificates of occupancy for this use shall be issued until the District Department of Transportation has approved a traffic routing plan for the lot, which shall include the impact of other proposed lots if required by District Department of Transportation.

718.6 The traffic routing plan described in Subtitle C § 718.5 shall not direct traffic through I Street, S.W., P Street, S.W., or 4th Street, S.W.

718.7 If and when valid building permits issued pursuant to this section authorize an aggregate of three thousand seven hundred seventy-five (3,775) or more parking spaces, the construction and use of additional temporary spaces on any of the subject squares shall require special exception approval of the Board of Zoning Adjustment pursuant to Subtitle X, and in accordance with Subtitle C §§ 718.8 through 718.10 and the following provisions:

(a) Any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2018; and

(b) The Board of Zoning Adjustment application shall include a detailed accounting of the number and locations of temporary parking spaces provided pursuant to Subtitle C §§ 718.2 through 718.5; and shall also include a traffic study assessing the impacts of the proposed additional parking spaces on local traffic patterns for referral to and comment by the District Department of Transportation.

718.8 Any parking lot authorized by this section shall be available for exclusive use of attendees at any baseball game or other public event held at the Ballpark for a

period extending from one and a half (1.5) hours prior to the scheduled start of the event, to three (3) hours after the event. At all other times, the parking lot may be used for:

(a) Parking on a general basis for Non-Commercial Motor Vehicles as that term is defined by 18 DCMR § 1312.3(c), except vehicles equipped to serve as temporary or permanent living quarters; or

(b) A seasonal or occasional market for produce, arts or crafts with non-permanent structures.

718.9 No use, other than permitted in this section shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises unless the use or structure is otherwise permitted in the zone in which the parking lot is located.

718.10 A temporary surface parking lot provided in accordance with this section shall comply with provisions of Subtitle C §§ 711 through 715 and the following standards:

(a) A minimum of five percent (5%) of parking spaces shall be reserved for a registered and recognized, publicly accessible car/ride-share program with a significant District user base and a mandate that is not commuter-oriented; and

(b) The car/ride share spaces shall be provided in premium, visible, bannered locations, and will be available, for a fee, exclusively for this use until the start of the event on that day.

CHAPTER 8 BICYCLE PARKING

800 INTRODUCTION

800.1 Any building permit application for new construction or addition to an existing building shall be accompanied by a bicycle parking plan, which shall be depicted on detailed site plans and building plans and demonstrate full compliance with this chapter.

800.2 The Zoning Administrator may at his or her discretion, request that District Department of Transportation review and make a recommendation regarding any item on the bicycle parking plan prior to approving the building permit application.

800.3 No certificate of occupancy shall be issued unless the bicycle parking spaces have been constructed in accordance with the approved bicycle parking plan.

801 BICYCLE PARKING REQUIREMENTS

801.1 When bicycle parking spaces are required, signs shall be posted in a prominent place at each entrance to the building or structure stating where bicycle parking spaces are located.

801.2 A property owner shall provide and maintain all required bicycle parking spaces so long as the structure that the bicycle parking spaces are designed to serve exists. Maintenance of required bicycle parking spaces shall include keeping all racks and spaces clear of snow, ice, and any other obstructions.

801.3 Where required bicycle parking is provided as racks, the racks must meet the following standards:

(a) The bicycle frame and one (1) wheel can be locked to the rack with a high security U-shaped shackle lock without removing a wheel from the bicycle;

(b) A bicycle six feet (6 ft.) long can be securely held with its frame supported in at least two (2) places so that it cannot be pushed over or fall in a manner that would damage the wheels or components;

(c) Racks shall be placed a minimum of thirty inches (30 in.) on center from one another; twenty-four inches (24 in.) from any other obstructions; with a forty-eight inch (48 in.) minimum aisle separating racks; and provide a minimum clearance width of twelve inches (12 in.) for each bicycle; and

(d) The rack shall be securely anchored.

801.4 Each required bicycle parking space shall be accessible without moving another bicycle.

802 MINIMUM NUMBER OF BICYCLE PARKING SPACES

802.1 All residential uses with eight (8) or more dwelling units and non-residential uses with four thousand square feet (4,000 sq. ft.) or more of gross floor area shall provide bicycle parking spaces as follows:

TABLE C § 802.1: MINIMUM NUMBER OF BICYCLE PARKING SPACES

Use	Long-Term Spaces	Short-Term Spaces
Agriculture, large	None	2 spaces
Agriculture, residential	None	None
Animal sales, care and boarding	1 space for each 10,000 sq. ft.	1 space for each 10,000 sq. ft.
Antennas	None	None
Arts, design and creation	1 space for each 10,000 sq. ft.	1 space for each 20,000 sq. ft.
Basic utilities	1 space for each 20,000 sq. ft.	None
Chancery	1 space for each 5,000 sq. ft.	1 space for each 40,000 sq. ft.
Community-based institutional facility	1 space for each 10,000 sq. ft.	1 space for each 10,000 sq. ft.
Daytime care	1 space for each 10,000 sq. ft.	1 space for each 10,000 sq. ft.
Eating and drinking establishment	1 for each 10,000 sq. ft.	1 space for each 3,500 sq. ft.
Education, college / university	1 space for each 7,500 sq. ft.	1 space for each 2,000 sq. ft.
Education, private school	1 space for each 7,500 sq. ft.	1 space for each 2,000 sq. ft.
Education, public	1 space for each 7,500 sq. ft.	1 space for each 2,000 sq. ft.
Emergency shelter	1 space for each 10,000 sq. ft.	1 space for each 10,000 sq. ft.
Entertainment, assembly, and performing arts	1 space for each 10,000 sq. ft.	1 space for each 10,000 sq. ft.
Firearm sales	1 space for each 10,000 sq. ft.	1 space for each 3,500 sq. ft.
Government, large-scale	1 for each 7,500 sq. ft.	1 space for each 40,000 sq. ft. but no less than 6 spaces
Government, local	1 for each 7,500 sq. ft.	1 space for each 40,000 sq. ft. but no less than 6 spaces
Medical care	1 space for each 10,000 sq. ft.	1 space for each 40,000 sq. ft.
Institutional, general	1 space for each 7,500 sq. ft.	1 space for each 2,500 sq. ft. but no less than 8 spaces
Institutional, religious	1 space for each 7,500 sq. ft.	1 space for each 2,500 sq. ft. but no less than 8 spaces
Lodging	1 space for each 10,000 sq. ft.	1 space for each 40,000 sq. ft.
Marine	None	1 space for each 3,500 sq. ft.
Motor vehicle-related	1 space for each 20,000 sq. ft.	1 space for each 10,000 sq. ft.
Office	1 for each 2,500 sq. ft.	1 space for each 40,000 sq. ft.
Parking	None	None
Parks and recreation	None	1 space for each 10,000 sq. ft. but no less than 6 spaces
Production, distribution, & repair	1 space for each 20,000 sq. ft.	None
Residential apartment	1 space for each 3 dwelling units	1 space for each 20 dwelling units
Residential house Residential flat	None	None
Residential, multiple dwelling unit	1 space for each 3 dwelling units	1 space for each 20 dwelling units

Use	Long-Term Spaces	Short-Term Spaces
Residential, single dwelling unit Residential, flat	None	None
Retail	1 for each 10,000 sq. ft.	1 space for each 3,500 sq. ft.
Service, general	1 for each 10,000 sq. ft.	1 space for each 3,500 sq. ft.
Service, financial	1 for each 10,000 sq. ft.	1 space for each 3,500 sq. ft.
Sexually-based business establishment	1 for each 10,000 sq. ft.	1 space for each 10,000 sq. ft.
Transportation infrastructure	None	None
Waste-related services	1 space for each 20,000 sq. ft.	None

802.2 After the first fifty (50) bicycle parking spaces are provided for a use, additional spaces are required at one-half (0.5) the ratio specified in Subtitle C § 802.1

802.3 Notwithstanding Subtitle C §§ 802.1 and 802.2, no property shall be required to provide more than one hundred (100) short-term bicycle parking spaces. All properties with a long-term bicycle parking requirement shall provide at least two (2) long-term spaces, and all properties with a short-term requirement shall provide at least two (2) short-term spaces. The bicycle parking standards of this chapter shall be met when a new building is constructed.

802.4 When a property changes use categories or adds a use category, the property shall add any bicycle parking spaces necessary to meet the requirements for the new use. However, historic resources shall not be required to provide additional bicycle parking spaces for a change in use when the gross floor area of the building is not expanded.

802.5 An addition to an existing building, or the expansion of a use within a building, triggers additional bicycle parking requirements only when the gross floor area of the building or use is expanded or enlarged by twenty-five percent (25%) or more beyond the gross floor area on the effective date of this title, or in the case of a new building, the gross floor area used to calculate the initial parking requirement. The additional minimum parking required shall be calculated based upon the entire gross floor area added.

802.6 Additions to historic resources shall be required to provide additional bicycle parking spaces only for the addition's gross floor area and only when the addition results in at least a fifty percent (50%) increase in gross floor area beyond the gross floor area existing on the effective date of this title.

802.7 Special exception relief from additional bicycle parking requirements for historic resources is provided for in Subtitle C § 807.

802.8 If a use operates solely outside of a building, any expansion of that use shall conform to the applicable bicycle parking standards.

802.9 Uses governed by a campus plan are subject to the bicycle parking requirements approved by the Zoning Commission and are not subject to the bicycle parking requirements otherwise applicable.

802.10 When there is more than one (1) use on a lot, the number of bicycle parking spaces provided must equal the total required for all uses. If a single use falls into more than one (1) use category for which different bicycle parking minimums apply, the standard that requires the greater number of bicycle parking spaces shall apply.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

803 RULES OF CALCULATION

803.1 All bicycle parking standards shall be calculated on the basis of gross floor area, except for residential uses, which base bicycle parking standards on the number of dwelling units.

803.2 For purposes of calculating bicycle parking standards:

(a) Gross floor area does not include floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space, or space devoted exclusively to bicycle storage or support (lockers and showers) facilities; and

(b) Gross floor area shall include penthouse habitable space, except that recreation space for residents or tenants of the building or other ancillary space associated with a rooftop deck shall not be included.

803.3 Calculations of bicycle parking spaces that result in a fractional number of one-half (0.5) or more shall be rounded up to the next consecutive whole number. Any fractional result of less than one-half (0.5) shall be rounded down to the previous consecutive whole number.

804 SHORT-TERM BICYCLE PARKING SPACE REQUIREMENTS

804.1 Required short-term bicycle parking spaces shall be located either on the same lot as the use they are intended to serve or on public space within twenty feet (20 ft.) of the lot. A use providing short-term bicycle parking on adjacent public space must obtain approval of a public space application under Title 24 DCMR.

804.2 Required short-term bicycle parking spaces shall be located within one-hundred and twenty feet (120 ft.) of a primary entrance to the building they serve.

804.3 Areas devoted to short-term bicycle parking on private property shall be surfaced and maintained with an all-weather surface conforming to the requirements of Subtitle C § 713.1.

804.4 Required short-term bicycle parking spaces shall be provided as bicycle racks that meet the standards of Subtitle C § 801.3.

804.5 An aisle at least four feet (4 ft.) wide between rows of bicycle parking spaces and the perimeter of the area devoted to bicycle parking shall be provided. Aisles shall be kept clear of obstructions at all times. Where the bicycle parking is on or adjacent to a sidewalk, the aisle may extend into the right-of-way.

804.6 Required short-term bicycle parking spaces shall be provided in a convenient, well-lit location that can be viewed from the building the spaces are intended to serve. Required short-term bicycle parking spaces shall be available for shoppers, customers, commuters, messengers, and all other visitors to the site.

805 LONG-TERM BICYCLE PARKING SPACE REQUIREMENTS

805.1 All required long-term bicycle parking spaces shall be located within the building of the use requiring them.

805.2 Required long-term bicycle parking spaces shall be located no lower than the first cellar level or the first complete parking level below grade, and no higher than the first above-grade level. Spaces shall be available to employees, residents, and other building occupants.

805.3 Required long-term bicycle parking shall be provided as racks or lockers. Bicycle racks for required long-term parking shall be provided in a parking garage or a bicycle storage room.

805.4 Where required long-term bicycle parking is provided in a garage, it shall be clearly marked and be separated from adjacent motor vehicle parking spaces by wheel stops or other physical automobile barrier.

805.5 Where required long-term bicycle parking is provided in a bicycle room, the room shall have either solid walls or floor-to-ceiling fencing. The room shall have locked doors.

805.6 For any bicycle room with solid walls, the entirety of the interior of the bicycle room shall be visible from the entry door. A motion-activated security light enclosed in a tamper-proof housing shall be provided in each bicycle room.

805.7 Where required long-term bicycle parking is provided in lockers, the lockers shall be securely anchored and meet the following minimum dimensions:

(a) Twenty-four inches (24 in.) in width at the door end;

(b) Eight inches (8 in.) in width at the opposite end;

(c) Seventy-two inches (72 in.) in length; and

(d) Forty-eight inches (48 in.) in height.

805.8 Each required long-term bicycle parking space shall be directly accessible by means of an aisle of a minimum width of four feet (4 ft.) and have a minimum vertical clearance of seventy-five inches (75 in.). Aisles shall be kept clear of obstructions at all times.

805.9 A minimum of fifty percent (50%) of the required long-term bicycle parking spaces shall allow the bicycles to be placed horizontally on the floor or ground. Vertical bicycle racks shall support the bicycle without the bicycle being suspended.

805.10 Each required long-term bicycle parking space shall be a minimum width of twenty-four inches (24 in.), and shall be:

(a) A minimum of seventy-two inches (72 in.) in length if the bicycles are to be placed horizontally; or

(b) A minimum of forty inches (40 in.) in length if the bicycles are to be placed vertically.

806 REQUIREMENTS FOR SHOWERS AND CHANGING FACILITIES – NON-RESIDENTIAL USES

806.1 The intent of this section is to ensure that long-term bicycle parking spaces are usable by the long-term occupants, especially employees, of non-residential uses.

806.2 The requirements of this section shall apply to:

(a) Newly constructed buildings; and

(b) Buildings that expand in gross floor area by more than twenty-five percent (25%).

806.3 A non-residential use that requires long-term bicycle parking spaces and that occupies more than twenty-five thousand square feet (25,000 sq. ft.) in gross floor area shall provide a minimum of two (2) showers. An additional two (2) showers shall be installed for every fifty thousand square feet (50,000 sq. ft.) of gross floor area above the first twenty-five thousand square feet (25,000 sq. ft.), up to a maximum requirement of six (6) showers.

806.4 A non-residential use that requires long-term bicycle parking spaces and that occupies more than twenty-five thousand square feet (25,000 sq. ft.) in gross floor area shall provide a minimum number of clothing lockers equal to six-tenths (0.6) times the minimum number of required long-term bicycle parking spaces. Each locker required by this subsection shall be a minimum of twelve inches (12 in.) wide, eighteen inches (18 in.) deep, and thirty-six inches (36 in.) high.

806.5 Showers and lockers required by this section shall be accessible to employees and other long-term occupants of the use requiring them. Showers and lockers shall be located within the same building as the use requiring them.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

807 SPECIAL EXCEPTIONS FROM BICYCLE PARKING REQUIREMENTS

807.1 This section provides flexibility from the requirements of this chapter when providing the number of bicycle parking spaces or showers and changing facilities required is impractical or contrary to other District regulations, or when it is unnecessary due to a lack of demand for bicycle parking.

807.2 The Board of Zoning Adjustment may grant, as a special exception, a full or partial reduction in the minimum number of long-term or short term bicycle parking spaces required for a use or structure, subject to the general requirements of Subtitle X, the limitations of Subtitle C § 807.3, and the applicant's demonstration of any of the following:

(a) Due to the physical constraints of the property, the required bicycle parking spaces cannot be provided on the lot or, in the case of short-term bicycle parking spaces, on abutting public space;

(b) The use or structure will generate demand for less bicycle parking than the minimum bicycle parking standards require, as a result of:

(1) The nature of the use or structure;

(2) Land use or topographical characteristics of the neighborhood that minimize the need for required bicycle parking spaces; or

(3) A transportation demand management plan approved by District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval, that will result in demand for less short-term bicycle parking than the minimum bicycle parking standards require; or

(c) The nature or location of the historic resource precludes the provision of bicycle parking spaces; or providing the required bicycle parking would result in significant architectural or structural difficulty in maintaining the integrity and appearance of the historic resource.

807.3 A reduction in parking granted under Subtitle C § 807.2 shall only be for the amount that the applicant demonstrates cannot be physically provided, and proportionate to the reduction in bicycle parking demand demonstrated by the applicant.

807.4 The Board of Zoning Adjustment may grant, as a special exception, modifications or waivers to the requirements for showers and changing facilities in Subtitle C §§ 806.3, 806.4, and 806.5 if in addition to meeting the general requirements of Subtitle X, the applicant demonstrates that:

(a) The intent of Subtitle C § 806 is met; and

(b) Either:

(1) The use will not generate the demand for the full number of showers and changing facilities required; or

(2) The property owner has an arrangement to make use of showers and changing facilities off-site, and that the showers and changing facilities will be reasonably available to long-term occupants of the use requiring the facilities.

CHAPTER 9 LOADING

900 INTRODUCTION

900.1 Any building permit application for new construction or addition to an existing building shall be accompanied by a detailed loading plan demonstrating full compliance with this chapter.

900.2 The Zoning Administrator may, at his or her discretion, request that the District Department of Transportation review and make a recommendation regarding any item on the loading plan prior to approving the building permit application.

900.3 No certificate of occupancy shall be issued unless the loading facilities have been constructed in accordance with the approved loading plans.

901 LOADING REQUIREMENTS

901.1 All buildings or structures shall be provided with loading berths and service/delivery spaces as follows, except for structures erected on Kingman and Heritage Islands for which the construction of service delivery loading spaces shall be prohibited:

TABLE C § 901.1: LOADING BERTHS AND SERVICE/DELIVERY SPACES

Use	Minimum Number of Loading Berths Required	Minimum Number of Service/Delivery Spaces Required
Agriculture	None	None
Animal sales, care and boarding		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Antennas	None	None
Arts, design and creation		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Basic utilities		
20,000 to 50,000 sq. ft. gross floor area	1	1
More than 50,000 to 200,000 sq. ft. gross floor area	2	1
More than 200,000 sq. ft. gross floor area	3	1
Chancery		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1

Use	Minimum Number of Loading Berths Required	Minimum Number of Service/Delivery Spaces Required
Community-based institutional facility		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Daytime care		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Education		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Emergency shelter		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Entertainment, assembly, and performing arts		
50,000 to 100,000 sq. ft. gross floor area	1	None
More than 100,000 to 500,000 sq. ft. gross floor area	2	None
More than 500,000 sq. ft. gross floor area	3	None
Firearm sales		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Food and alcohol services		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Government, large-scale		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Government, local		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Health care		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Institutional		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Lodging		
10,000 to 50,000 sq. ft. gross floor area	1	None
More than 50,000 to 100,000 sq. ft. gross floor area	2	None
More than 100,000 to 500,000 sq. ft. gross floor area	3	None
More than 500,000 sq. ft. gross floor area	4	None
Marine		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1

Use	Minimum Number of Loading Berths Required	Minimum Number of Service/Delivery Spaces Required
Motor vehicle-related		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Office		
20,000 to 50,000 sq. ft. gross floor area	1	1
More than 50,000 to 200,000 sq. ft. gross floor area	2	1
More than 200,000 sq. ft. gross floor area	3	1
Parking	None	None
Parks and recreation		
More than 30,000 sq. ft. gross floor area	None	1
Production, distribution, and repair		
5,000 to 25,000 sq. ft. gross floor area	1	None
More than 25,000 sq. ft. gross floor area	2	None
For each 100,000 sq. ft. gross floor area more than 50,000 sq. ft.	1	None
Residential		
More than 50 dwelling units	1	1
Retail		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Service		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Sexually-oriented business establishment		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Transportation infrastructure	None	None
Waste-related services		
5,000 to 25,000 sq. ft. gross floor area	1	None
More than 25,000 sq. ft. gross floor area	2	None
For each 100,000 sq. ft. gross floor area more than 50,000 sq. ft.	1	None

901.2 The loading requirements shall be met when a new building or structure is constructed.

901.3 No loading berths are required for buildings or structures with a gross floor area less than the minimum specified in Subtitle C § 901.1.

901.4 Each loading berth shall be accompanied by one (1) adjacent loading platform.

901.5 When a property changes or adds a use category, the following shall apply:

(a) Additional loading berths, loading platforms and service/delivery spaces shall be required only when the minimum number of loading spaces required for the new use category exceeds the number of spaces required for the prior use category that occupied the same floor area;

(b) When determining the amount of additional required loading, it shall be assumed that the previous use provided the minimum number of spaces required; and

(c) Historic resources shall not be required to provide additional loading for a change in use without expansion.

901.6 Unless the existing building has provided the maximum requirements under this chapter, an addition to an existing building, or the expansion of a use within a building triggers additional loading requirements only when the gross floor area of the building or use is expanded or enlarged by twenty-five percent (25%) or more beyond the gross floor area on the effective date of this title, or in the case of a new building, the gross floor area used to calculate the initial loading requirement. The additional minimum loading berths and service/delivery spaces required shall be calculated based upon the entire gross floor area added.

901.7 An addition to a historic resource shall be required to provide additional loading berths, loading platforms, and service/delivery spaces only for the addition's gross floor area and only when the addition results in at least a fifty percent (50%) increase in gross floor area beyond the gross floor area existing on the effective date of this title.

901.8 Where two (2) or more uses share a building or structure, the uses may share loading as long as internal access is provided from all shared uses requiring loading.

901.9 For a building or structure having three (3) or more required loading berths in one (1) location, the loading berths may be stacked.

901.10 No other use shall be conducted from or upon the loading berth or service/delivery space or any portion thereof.

901.11 Each service/delivery space shall be clearly marked "For Service and Delivery Vehicles Only" and used exclusively for such vehicles.

902 RULES OF MEASUREMENT

902.1 When two (2) or more non-residential uses in the same use category share a building or structure, all of the uses in the same use category shall be added together to derive the total gross floor area, to determine the required number of berths and spaces for that use category.

902.2 When two (2) or more uses in different use categories share a building or structure, the building or structure is only required to provide enough berths and spaces to meet the requirement for the use category with the highest requirement, and not the combination of requirements for all use categories provided that all uses that require loading have access to the loading area.

902.3 At least one (1) loading berth shall be provided when the sum of the gross floor area of the separate uses exceeds the minimum gross floor area requiring loading berths for any one of the separate uses.

902.4 For purposes of calculating loading requirements for non-residential uses:

(a) Gross floor area does not include floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space or space devoted exclusively to bicycle storage or support (lockers and showers) facilities; and

(b) Gross floor area shall include penthouse habitable space except that recreation space for tenants of the building or other ancillary space associated with a rooftop deck shall not be included.

903 LOCATION RESTRICTIONS

903.1 Except as provided in this section, all loading berths and service/delivery spaces shall be located as follows:

(a) Within the building or structure the berths or spaces are designed to serve;

(b) Within the rear yard of the building they are intended to serve; or

(c) Within a court or side yard of the building they are intended to serve, provided that on a lot that is within or adjacent to an R, RF, RA, or NC zone, the loading berths and service/delivery loading spaces shall be at least six feet (6 ft.) from any side lot line.

903.2 Loading facilities in PDR zones are not subject to the requirements of Subtitle C § 903.1. However, loading facilities:

(a) Located in a side yard on a lot that is within or adjacent to an R, RF, RA, or NC zone shall be at least six feet (6 ft.) from any side lot line; and

(b) May be located within a required transitional setback only as a special exception.

903.3 All loading platforms shall be located contiguous and with unobstructed access to the loading berth and shall have unobstructed access to an entrance to the building or structure.

903.4 All uses that require loading berths shall be capable of accessing the loading facilities.

903.5 All loading berths shall be designed so that no vehicle or any part thereof shall project over any lot line, front setback line, or building restriction line.

903.6 Required loading berths may be provided in facilities designed to serve jointly two (2) or more adjoining buildings or structures on lots that share a party wall or lot line or are separated only by an alley within a single square; provided:

(a) The number of berths in the joint facilities shall not be less than that required for the total combined requirement in Subtitle C § 901.1; and

(b) A binding covenant that is acceptable to the Zoning Administrator, ensuring the joint use of the loading berths and entered into by all property owners concerned, shall be recorded in the land records of the District of Columbia for the affected properties. A certified true copy of the recorded covenant shall be filed with the Zoning Administrator. Joint use of the loading berths by all parties involved shall continue in effect so long as the binding agreement remains in force. If the agreement becomes legally ineffective or inoperable, the loading berths shall be provided as otherwise required by Subtitle C § 901.1.

904 ACCESS REQUIREMENTS

904.1 All loading berths and service/delivery spaces shall be accessible at all times from a driveway meeting the requirements of Subtitle C §§ 904.2 and 904.3.

904.2 A driveway or access aisle leading to a loading berth or service/delivery space shall have a minimum width of twelve feet (12 ft.), a maximum width of twenty-four (24) feet, and a maximum slope of twelve percent (12%).

904.3 No driveway providing access to a loading berth or service/delivery space shall be located in such a way that a vehicle entering or exiting from the loading berth blocks any street intersection.

904.4 A loading berth or service/delivery space shall be designed so that it is usable and accessible by the vehicles that it is intended to serve.

904.5 All loading berth or service/delivery space shall be located to be accessed from a public alley, where an open and improved alley of fifteen feet (15 ft.) width exists.

905 SIZE AND LAYOUT REQUIREMENTS

905.1 The intent of this section is to ensure that loading facilities are adequately sized and capable of performing their intended functions.

905.2 All loading berths shall be a minimum of twelve feet (12 ft.) wide, have a minimum depth of thirty feet (30 ft.) and have a minimum vertical clearance of fourteen feet (14 ft.).

905.3 All service/delivery spaces shall be a minimum of ten feet (10 ft.) wide, have a minimum depth of twenty feet (20 ft.), and have a minimum vertical clearance of ten feet (10 ft.).

905.4 All loading berths shall be accompanied by one (1) adjacent loading platform that meets the following requirements:

(a) A loading berth that is less than fifty-five feet (55 ft.) deep shall have a platform that is at least one hundred square feet (100 sq. ft.) and at least eight feet (8 ft.) wide;

(b) A loading berth that is fifty-five feet (55 ft.) deep or greater shall have a platform that is at least two hundred square feet (200 sq. ft.) and at least twelve feet (12 ft.) wide;

(c) Loading platforms shall have a minimum vertical clearance of ten feet (10 ft.); and

(d) A loading platform floor shall consist of one (1) horizontal level.

905.5 No loading platform need be provided for loading berths if the required loading berth is increased in depth for the full width thereof, such that the resulting enlarged loading berth is equal in area to the combined area of a required loading berth and a required loading platform.

905.6 The dimensions specified in this section for loading berths and service/delivery spaces are exclusive of access aisles, maneuvering space, and loading platforms.

906 MAINTENANCE REQUIREMENTS

906.1 All loading berths and service/delivery spaces including access aisles, driveways, and maneuvering areas shall be surfaced and maintained with an all-weather surface.

906.2 A loading berth or service/delivery space, including access aisles, driveways, and maneuvering areas, shall be maintained and used as a loading berth or service/delivery space for as long as the use exists that the loading berth or service/delivery space is designed to service.

907 TRASH ROOM AND RECEPTACLE REQUIREMENTS

907.1 Buildings requiring loading shall have a designated trash area either within the building or within a loading berth or within an accessory building or structure immediately adjacent to the loading area or within an enclosed receptacle in a

designated trash area within the loading area. All new development over two thousand square feet (2,000 sq. ft.) of gross floor area other than buildings with only one (1) or two (2) dwelling units must clearly show the area for the building's trash receptacles on the building plans.

907.2 Except for single dwelling units and flats, trash receptacles external to a building shall be screened and covered.

908 SCREENING AND LIGHTING REQUIREMENTS

908.1 All loading berths or service/delivery spaces that are not enclosed within a building and are located in a zone other than a PDR zone or a PDR zone that abuts an R, RF, or RA zone, shall have screening around the entire perimeter, subject to the standards of Subtitle C §§ 908.3 and 908.4.

908.2 Screening is not required if the loading area is in a rear yard and separated from all contiguous property by at least twenty-five feet (25 ft.).

908.3 The screening required by Subtitle C § 908.1 shall be a solid masonry wall at least twelve inches (12 in.) thick and seventy-two inches (72 in.) high. The wall shall harmonize with the main structure in architectural character, material, and color.

908.4 Gaps in the screening are allowed only to provide driveways and pedestrian exits or entrances that open directly onto a street or alley. No individual gap may exceed twenty feet (20 ft.) in width.

908.5 Any lighting used to illuminate a loading berth, loading platform, or service/delivery space shall be arranged so that all direct light rays are confined to the surface of the berth, platform, or space.

909 SPECIAL EXCEPTIONS FROM LOADING REQUIREMENTS

909.1 This section provides flexibility from the loading requirements when providing the number of spaces required is impractical or contrary to other District regulations.

909.2 The Board of Zoning Adjustment may grant, as a special exception, a full or partial reduction of the number of loading berths or service/delivery spaces required by Subtitle C § 901.1 if, in addition to meeting the general requirements of Subtitle X, Chapter 9, the applicant demonstrates that:

(a) The only means by which a motor vehicle could access the lot is from a public street, and provision of a curb cut or driveway on the street would violate any regulation in this chapter, or in Chapters 6 or 11 of Title 24 DCMR; or

(b) The loading berths or service/delivery spaces are required for an addition to a historic resource, and providing the required loading facilities would

result in significant architectural or structural difficulty in maintaining the integrity and appearance of the historic resource.

909.3 The Board of Zoning Adjustment may grant, as a special exception, a waiver of the access requirements of Subtitle C §§ 904.2 and 904.3 if, in addition to meeting the general requirements of Subtitle X, the applicant demonstrates:

(a) The lot has unusual topography, grades, shape, size, or dimensions; or

(b) Alternate access arrangements would improve site design, landscaping, or traffic patterns or provide safer ingress or egress.

909.4 The Board of Zoning Adjustment may grant, as a special exception, modifications, or waivers of the screening requirements of Subtitle C § 908 if, in addition to meeting the general requirements of Subtitle X, the applicant demonstrates that:

(a) Existing protective and screening walls on the lot or on adjacent property are adequate to prevent adverse impacts on adjacent property; or

(b) Provision of protective screening walls would result in the removal of healthy trees or other landscaping, or architectural features determined by the Board of Zoning Adjustment to be worthy of protection or to provide equal screening benefits.

909.5 When granting a special exception under this section, the Board of Zoning Adjustment may impose conditions as to screening, lighting, coping, setbacks, fences, location of entrances and exits, widening of abutting alleys, loading management or transportation demand management practices, or any other requirement it deems necessary to protect adjacent or nearby property and promote the public health, safety, and welfare.

CHAPTER 10 INCLUSIONARY ZONING

1000 INTRODUCTION

1000.1 The purposes of the Inclusionary Zoning (IZ) Program are:

(a) To further the Housing Element of the Comprehensive Plan by increasing the amount and expanding the geographic distribution of adequate, affordable housing available to current and future residents;

(b) To utilize the skills and abilities of private developers to produce quality affordable housing;

(c) To leverage private development, combined where appropriate with zoning density increases, to produce affordable housing throughout the District of Columbia;

(d) To mitigate the impact of market-rate residential development on the availability and cost of housing available and affordable to low- and moderate-income households;

(e) To increase the production of affordable housing units throughout the District to meet existing and anticipated housing and employment needs;

(f) To provide for a full range of housing choices throughout the District for households of all incomes, sizes, and age ranges to preserve diversity and to ensure the benefits of economic integration for the residents of the District;

(g) To stabilize the overall burden of housing costs on low- and moderate-income households;

(h) To create a stock of housing that will be affordable to low- and moderate-income residents over a long term; and

(i) To make homeownership opportunities available to low- and moderate-income residents.

1000.2 It is the intent of the Zoning Commission to promulgate only such regulations as are necessary to establish the minimum obligations of property owners applying for building permits or certificates of occupancy under an IZ Program. All other aspects of the program, including the setting of maximum purchase prices and rents, the minimum sizes of the units, the selection and obligations of eligible households, and the establishment of enforcement mechanisms such as covenants and certifications shall be governed by the following laws and regulations related to the IZ requirements:

(a) The Inclusionary Zoning Implementation Amendment Act of 2006; and

(b) Chapter 22 of the Housing Regulations (Title 14 DCMR).

1001 APPLICABILITY

1001.1 Achievable inclusionary bonus density is the amount of the permitted bonus density that potentially may be utilized within a particular inclusionary residential development.

1001.2 Except as provided in Subtitle C § 1001.5, the requirements and modifications of this chapter shall apply to developments meeting the following criteria:

(a) Are mapped in the R-2, R-3, R-10, R-13, R-17, R-20, RA-1 through RA-4, RA-6, RA-7, RA-8, or RA-9 zone; any RF, ARTS, CG, RC, USN, STE, or HE zone; the NC-1 through NC-5 or NC-7 through NC-13 zone; the MU-1 through MU-10 or MU-12 through MU-26, MU-28, or MU-29 zone; or the D-2 or D-4 zone; and

(b) Is proposing new gross floor area that would result in ten (10) or more dwelling units;

(c) Will have ten (10) or more new dwelling units with only one (1) or two (2) dwelling units constructed concurrently or in phases, on contiguous lots or lots divided by an alley if such lots were under common ownership at the time of construction; or

(d) Consists of a residential building, other than a single dwelling unit or flat, that has penthouse habitable space pursuant to Subtitle C § 1500.11.

1001.3 If more than one (1) building permit is issued for a development, the number of dwelling units and new gross floor area used to establish the applicability of the IZ requirements, and associated IZ modifications, shall be based on all the applications occurring within a three (3) year period, starting from the first building permit application.

1001.4 If the new gross floor area comprising ten (10) or more units would result in an increase of fifty percent (50%) or more in the floor area of an existing building, IZ requirements and modifications shall apply to both the existing and the increased gross floor area.

1001.5 Except for new penthouse habitable space as described in Subtitle C § 1001.2(d), IZ requirements of this chapter shall not apply to:

(a) Properties located in any of the following areas:

(1) The R-1-A and R-1-B zones;

(2) The MU-13 zone in the Georgetown Historic District;

(3) The R-3 zone in the Anacostia Historic District;

(4) The MU-27 zone;

(5) The D-1-R, D-3, D-4-R, and D-5 zones;

(6) The SEFC zones of Subtitle K Chapter 2;

(7) The WR zones of Subtitle K Chapter 9

(8) The NC-6 zone; and

(9) Hotels, motels, or inns;

(b) Housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff; and

(c) Housing that is owned or leased by foreign missions exclusively for diplomatic staff.

1001.6 IZ requirements of this chapter shall not apply to:

(a) Any development financed, subsidized, or funded in whole or in part by the Federal or District Government and administered by the Department of Housing and Community Development (DHCD), the District of Columbia Housing Finance Agency (DCHFA), or the District of Columbia Housing Authority (DCHA); provided:

(1) The development shall set aside, for low or moderate-income households, affordable dwelling units ("Exempt Affordable Units") equal to at least the gross square footage that would have been otherwise required pursuant to the set-aside requirements in Subtitle C § 1003 for the zone in which the development is located. The terms "low-income household" and "moderate-income household" shall have the same meaning as given them by the federal or District funding source, or financing or subsidizing entity, and shall hereinafter be referred to collectively as "Targeted Households";

(2) The Exempt Affordable Units shall be reserved for the Targeted Households and sold or rented in accordance with the pricing structure established by the federal or District funding source, or financing or subsidizing entity, for so long as the project exists;

(3) The requirements set forth in subparagraphs (1) and (2), of this paragraph, shall be stated as declarations within a covenant approved by the District; and

(4) The approved covenant shall be recorded in the land records of the District of Columbia prior to the date that the first application for a certificate of occupancy is filed for the project; except that for developments that include buildings with only one (1) dwelling unit, the covenant shall be recorded before the first purchase agreement or lease is executed; and

(b) Boarding houses, community based institutional facilities; or single room occupancy projects within a single building.

1001.7 No exemption may be granted pursuant to Subtitle C § 1001.6(a) unless the Zoning Administrator receives a written certification from the DHCD Director that the development meets the requirements of Subtitle C §§ 1001.6(a)(1) and (4).

1001.8 A development not otherwise subject to the requirements of this chapter may opt in to the IZ program and, except as limited in Subtitle C § 1001.9, may utilize the IZ zoning modifications provided for in Subtitle C § 1002.

1001.9 A development in the following zones not otherwise subject to the requirements of this chapter may opt in to the IZ program but shall not utilize the IZ zoning modifications provided for in Subtitle C § 1002:

(a) D-1-R; D-3, D-4, D-5, and D-8;

(b) MU-13 and MU-27;

(c) NC-6;

(d) R-3;

(e) RA-6; and

(f) SEFC.

1001.10 The requirements of this chapter shall automatically terminate if title to the mortgaged property is transferred following foreclosure by, or deed-in-lieu of foreclosure to, a mortgagee in the first position, or a mortgage in the first position is assigned to the Secretary of the U.S. Department of Housing and Urban Development (HUD).

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

1002 BONUSES AND ADJUSTMENTS TO INCENTIVIZE INCLUSIONARY UNITS

1002.1 The types of density bonuses and/or dimensional adjustments in this section are available to developments subject to the Inclusionary Zoning (IZ) provisions of this chapter.

1002.2 Inclusionary residential developments in the zones identified in the following table may use the minimum lot dimensions identified in the table in lieu of the otherwise required lot dimension required by Subtitles D and E:

TABLE C § 1002.2: IZ DIMENSIONAL MODIFICATIONS FOR LOWER DENSITY ZONES

Base Zone	IZ Dimensional Modifications for Lower Density Zones		
	Minimum Lot Area	Minimum Lot Width	Minimum Lot Width with Special Exception
R-2, R-10 Detached	3,200 sq. ft.	40	32
R-2, R-10 Semi-Detached	2,600 sq. ft.	30	25
R-3, R-13, R-17, R-20	1,600 sq. ft.	20	16
RF-1, RF-2, RF-3, RF-4, RF-5	1,500 sq. ft.	18	16

1002.3 Inclusionary developments subject to the provisions of this chapter, except those located in the StE and HE zone districts, may construct up to twenty percent (20%) more gross floor area than permitted as a matter of right ("bonus density"), subject to all other zoning requirements (as may be modified by the zone district) and the limitations established by the Height Act.

1002.4 Inclusionary residential developments in the zones below may use the following modifications to height and lot occupancy in order to achieve the bonus density:

TABLE C § 1002.4: MODIFICATIONS TO HEIGHT AND LOT OCCUPANCY FOR BONUS DENSITY

Base Zone	Matter-of-Right Zoning Constraints			IZ Zoning Modifications	
	Lot Occupancy	Zoning Height	Zoning FAR	Lot Occupancy	Height (feet)
RA-5, RA-11, D-1	75%	90 ft.	6.00	90%	90
MU-10, MU-22, MU-29, ARTS-4	75%	90 ft.	6.00	80%	100
MU-4, MU-17, MU-24, MU-25, MU-26 through MU-29, MU-33, NC-2, NC-3, NC-4, NC-7, NC-9, NC-14, NC-16 ARTS-1, RC-2	60%	50 ft.	2.50	75%	50
MU-5, MU-18, ARTS-2, RC-3, NC-5, NC-10, NC-17	80%	65 ft.	3.50	80%	70
MU-6, MU-19, NC-11	80%	90 ft.	6.00	90%	90
MU-7, MU-28, ARTS-3, NC-8, NC-12, NC-15	75%	65 ft.	4.00	80%	65

Base Zone	Matter-of-Right Zoning Constraints			IZ Zoning Modifications	
	Lot Occupancy	Zoning Height	Zoning FAR	Lot Occupancy	Height (feet)
MU-12	80%	40 ft.	2.50	80%	50
MU-13	75%	60 ft.	4.00	75%	80
MU-13	75%	90 ft.	6.00	80%	100
MU-1, MU-15	80%	65 ft.	4.00	80%	70
MU-2, MU-16, MU-23, D-2	80%	90 ft.	6.00	90%	90
CG-1	75%	90 ft.	6.0	90%	90

1002.5 An inclusionary residential development that has met its IZ set-aside requirements and used all the bonus density permitted by IZ may be eligible for other bonus density permitted by other chapters of this title, provided the development's total density does not exceed the FAR-maximum associated with the zone permitting that additional bonus density.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

1003 SET-ASIDE REQUIREMENTS

1003.1 An inclusionary residential development for which the primary method of construction does not employ steel or steel and concrete frame structure and which is located in a zone with a by-right height limit of fifty feet (50 ft.) or less shall set aside the greater of ten percent (10%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or seventy-five percent (75%) of its achievable bonus density to inclusionary units plus an area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).

1003.2 An inclusionary residential development of steel or steel and concrete frame construction shall set aside the greater of eight percent (8%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or fifty percent (50%) of its achievable bonus density to inclusionary units plus an area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).

1003.3 Except as provided in Subtitle C §§ 1003.5 through 1003.7, inclusionary residential developments in the R, RF, RA zones, or in the MU or NC zones where the by-right height limit is fifty feet (50 ft.) or less, shall set aside fifty percent (50%) of inclusionary units for eligible low-income households and fifty percent (50%) of inclusionary units for eligible moderate-income households. The first inclusionary unit and each additional odd number unit shall be set aside for low-income households.

1003.4 Except as provided in Subtitle C § 1003.7, inclusionary residential developments in the D zones, or in the MU or NC zones where matter-of-right height limits

exceed fifty feet (50 ft.), shall set aside one hundred percent (100%) of inclusionary units for eligible moderate-income households.

1003.5 An inclusionary development that results from a conversion of a single dwelling unit or flat to a multiple dwelling unit development in an RF zone for four (4) or more dwelling units approved by the Board of Zoning Adjustment shall set aside every even numbered dwelling unit beginning at the fourth (4th) unit as an inclusionary unit.

1003.6 An inclusionary development that results from a conversion of a single dwelling unit or flat to a multiple dwelling unit development in an RF zone for four (4) or more dwelling units approved by the Board of Zoning Adjustment shall set aside one hundred percent (100%) of inclusionary units for eligible moderate-income households.

1003.7 Notwithstanding Subtitle C §§ 1003.3 and 1003.4, one hundred percent (100%) of inclusionary units resulting from the set-aside required for penthouse habitable space shall be set aside for eligible low-income households.

SOURCE: Final Rulemaking & Order No. 14-13C published at 63 DCR 9110 (July 1, 2016).

1004 PURCHASE AND TENANCY REGULATIONS

1004.1 Except as provided for in Subtitle C § 1004.2 all inclusionary units created pursuant to this chapter shall be leased or sold only to eligible households for so long as the inclusionary residential development exists.

1004.2 An owner/occupant of an inclusionary unit may not sell the unit at a price greater than that established by the Mayor pursuant to D.C. Official Code § 6-1041.03 of the IZ Act unless the price is offered by the Mayor or a Housing Trust authorized by the Mayor;

(a) No eligible household shall be offered an inclusionary unit for rental or sale at an amount greater than that established by the Mayor pursuant to D.C. Official Code § 6-1041.03 of the IZ Act;

(b) The Mayor or DCHA shall have the right to purchase the greater of one (1) IZ unit or twenty-five percent (25%) of inclusionary units in a for-sale inclusionary development, or any number agreed to by the owner of the development, in accordance with procedures set forth in the IZ Act.

1004.3 Notwithstanding Subtitle C § 1004.2, nothing shall prohibit the Mayor or DCHA from acquiring title to inclusionary units in a for-sale inclusionary development if any of the following circumstances exist:

(a) There is a risk that title to the units will be transferred by foreclosure or deed-in-lieu of foreclosure, or that the units' mortgages will be assigned

to the Secretary of the U.S. Department of Housing and Urban Development (HUD); or

(b) Title to the units has been transferred by the foreclosure or deed-in-lieu of foreclosure, or the units' mortgages have been assigned to HUD.

1005 DEVELOPMENT STANDARDS REGARDING INCLUSIONARY UNITS

1005.1 The proportion of studio and one-bedroom inclusionary units shall not exceed the proportion of the comparable market rate units for each unit type.

1005.2 All inclusionary units shall be comparable in exterior design, materials, and finishes to the market-rate units.

1005.3 The interior amenities of inclusionary units, such as finishes and appliances, shall be comparable to the market-rate units but may consist of less expensive materials and equipment, provided the interior amenities are durable, of good quality, and consistent with contemporary standards for new housing.

1005.4 All inclusionary units in an inclusionary development shall be constructed prior to or concurrently with the construction of market-rate units, except that in a phased development, the inclusionary units shall be constructed at a pace that is proportional to the construction of the market-rate units.

1005.5 Inclusionary units shall not be overly concentrated on any floor of a project.

1006 OFF-SITE COMPLIANCE WITH INCLUSIONARY ZONING

1006.1 The Board of Zoning Adjustment is authorized to permit some or all of the set-aside requirements of Subtitle C § 1003 to be met by off-site construction upon proof, based upon a specific economic analysis, that compliance on-site would impose an economic hardship.

1006.2 Among the factors that may be considered by the Board of Zoning Adjustment in determining the existence of economic hardship are:

(a) Exceptionally high fees in condominium developments that cannot be reduced to levels affordable to eligible households;

(b) The inclusion of expensive and specialized social or health services in a retirement housing development or a development that principally provides housing for the disabled, if such services are not severable from the provision of housing and render units in the development unaffordable to eligible households; or

(c) Proof that continuation of the existing rental inclusionary development is no longer economically feasible, when the owner wishes to change the

property's use to a non-residential use or to one (1) meeting the exemption requirements of Subtitle C § 1001.5.

1006.3 An applicant who has demonstrated the existence of economic hardship shall further demonstrate that the off-site development:

(a) Is located within the same census tract as the inclusionary residential development;

(b) Consists of new construction for which no certificate of occupancy has been issued;

(c) Is at a location suitable for residential development;

(d) Has complied with or will comply with all on-site requirements of this chapter as are applicable to it;

(e) Has not received any development subsidies from Federal or District Government programs established to provide affordable housing;

(f) Will provide inclusionary units with gross floor areas for each unit type of not less than ninety-five percent (95%) of the gross floor area of the off-site market-rate unit types, and of a number no fewer than the number of units that would otherwise have been required on-site; and

(g) Will not have more than thirty percent (30%) of its gross floor area occupied by inclusionary units.

1006.4 The requirement of Subtitle C § 1006.3(a) may be waived upon a showing that the off-site development is owned by the applicant, is located in the District of Columbia, and meets all the other requirements of Subtitle C § 1006.3.

1006.5 Inclusionary units permitted to be constructed pursuant to this section shall not be counted toward any set-aside requirement separately applicable to the off-site development or to any other inclusionary residential development.

1006.6 No order granting off-site compliance shall become effective until a covenant, found legally sufficient by the Office of the Attorney General, has been recorded in the land records of the District of Columbia between the owner of the off-site development and the Mayor. A draft covenant, executed by the owner of the off-site property, shall be attached to an application for relief under this section.

1006.7 The covenant shall bind the owner and all future owners of the off-site development to:

(a) Construct and reserve the number of inclusionary units allowed to be accounted for off-site, in accordance with the plans approved by the Board of Zoning Adjustment and the conditions of the Board's order;

(b) Sell or rent, as applicable, such units in accordance with the provisions of this chapter and the IZ Act for so long as the off-site development remains in existence;

(c) Neither apply for nor accept any development subsidies from Federal or District Government programs established to provide affordable housing;

(d) Acknowledge that the owners are legally responsible for the set-aside requirement accepted as if the requirement had been imposed directly on the off-site development; and

(e) Not request special exception or variance relief with respect to the obligations accepted or its own obligations under this chapter.

1006.8 Upon the recordation of the covenant, the set-aside requirements permitted to be accounted off-site shall be deemed to be the legal obligation of the current and future owners of the off-site development. All dwelling units as are required to be reserved in the off-site development in accordance with the Board of Zoning Adjustment's order shall be deemed inclusionary units for the purposes of this chapter and the IZ Act.

1006.9 No application for a certificate of occupancy for a market-rate unit on the inclusionary development shall be granted unless construction of the off-site inclusionary units is progressing at a rate roughly proportional to the construction of the on-site market-rate units.

1006.10 Inclusionary units resulting from the set-aside required for penthouse habitable space as described in Subtitle C § 1001.2(d) shall be provided within the building, except that the affordable housing requirement may be achieved by providing a contribution to a housing trust fund, consistent with the provisions of Subtitle C §§ 1505.13 through 1505.16, except that the calculation of § 1505.15 shall be based on the maximum permitted residential FAR, when:

(a) The new penthouse habitable space is being provided as an addition to an existing building which is not otherwise undergoing renovations or additions that would result in a new or expanded Inclusionary Zoning requirement within the building;

(b) The penthouse habitable space is being provided on an existing or new building not otherwise subject to Inclusionary Zoning requirements; or

(c) The building is not otherwise required to provide inclusionary units for low income households and the amount of penthouse habitable space would result in a gross floor area set-aside less than the gross floor area of the smallest dwelling unit within the building.

SOURCE: Final Rulemaking & Order No. 14-13A published at 63 DCR 8118 (June 3, 2016).

1007 RELIEF FROM INCLUSIONARY ZONING REQUIREMENTS

1007.1 The Board of Zoning Adjustment is authorized to grant partial or complete relief from the requirements of Subtitle C § 1003 upon a showing that compliance, whether on-site, off-site, or a combination thereof, would deny the applicant economically viable use of its land.

1007.2 An application for a variance from the requirements of Subtitle C § 1003 shall not be granted unless the Board of Zoning Adjustment has determined that the applicant cannot comply with the provisions of Subtitle C § 1006 based on evidenced provided by the applicant, and has voted to deny an application for relief pursuant to this section or Subtitle C § 1006.

1008 APPLICABILITY DATE

1008.1 With the exception of penthouse habitable space approved by the Zoning Commission pursuant to Subtitle C § 1504.3, the provisions of this chapter shall not apply to any building approved by the Zoning Commission pursuant to a planned unit development if the approved application was set down for hearing prior to March 14, 2008.

CHAPTER 11 WATERFRONT

1100 INTRODUCTION

1100.1 This chapter identifies waterfront regulations proximate to the Potomac River, Anacostia River, or Washington Channel.

1100.2 Waterfront regulations are intended to provide for:

(a) Physical and visual public accessibility to and along the waterfront;

(b) Protection of natural resources along the waterfront;

(c) Open space along the waterfront; and

(d) Use restrictions in the one hundred (100)-year flood plain.

1101 APPLICABILITY

1101.1 The waterfront shall be that area proximate to either the Potomac or Anacostia rivers.

1101.2 The provisions of this chapter shall apply to all properties with frontage on the Anacostia or Potomac Rivers.

1102 GENERAL WATERFRONT REGULATIONS

1102.1 A waterfront setback to any building or structure shall be provided in accordance with the following provisions:

(a) The waterfront setback shall be a minimum of seventy-five feet (75 ft.) in depth, except as noted in individual zones;

(b) The waterfront setback shall be measured inland from the bulkhead or the mean high water level, whichever results in the larger waterfront setback;

(c) Parking spaces, passenger drop-off areas, access to parking spaces, and access to loading areas shall not be located within the required waterfront setback area;

(d) The waterfront setback shall apply to all buildings, structures, parking spaces, loading areas, and passenger drop-off areas, other than:

(1) Water-taxi ticketing/information booth;

(2) Structures directly associated with a publicly accessible wharf, dock, or pier; or

(3) Public nature education center located on Kingman Island;

(e) Twenty-five feet (25 ft.) of the required waterfront setback area, for the full width of the lot along the water, shall be reserved for a public pedestrian and bicycle trail along the waterfront. The property owner shall align the trail reservation area with the reservation on adjacent properties;

(f) The Board of Zoning Adjustment may approve as a special exception a waterfront setback of less than amount required in Subtitle C § 1101.1(a), pursuant to the general special exception criteria of Subtitle X and the criteria of Subtitle C § 1102.1(g); and

(g) The following criteria shall be considered by the Board of Zoning Adjustment when evaluating an application for a waterfront setback less than otherwise required and when evaluating a special exception use in the MU-11 zone:

(1) The buildings, structures, and uses will enhance the visual and public recreational opportunities offered along the waterfront;

(2) Buildings, structures, and uses on land will be located and designed to minimize adverse impacts on the river and riverbank areas;

(3) Buildings, structures, and uses on, under, or over water will be located and designed to minimize adverse impacts on the river and riverbank areas;

(4) All structures and buildings will be located so as to not likely become objectionable to surrounding and nearby property because of noise, traffic, or parking, and so as not to limit public access along or to the waterfront, other than directly in front of the principal building or structure of a boathouse, marina, yacht club, or other water-dependent use;

(5) Impervious surfaces will be minimized, and buildings and all other impervious surfaces will be designed and sited to prevent surface storm water run-off directly into the river;

(6) Accessory or non-accessory parking spaces, including the location of entrances and exits and any screening or fences, will be designed to minimize visual or physical impacts on adjacent parkland and the waterfront; and

(7) Emergency access will be provided to any buildings, structures, or other space devoted to active public use.

1102.2 Where the L'Enfant street grid exists in the vicinity of a waterfront lot, no buildings or structures may be built within the area defined by the street right-of-way lines extended to the water.

1102.3 Where no L'Enfant street grid exists in the vicinity of a waterfront lot, no buildings or structures may be built to a length, as measured parallel to the water, of greater than three-hundred feet (300 ft.).

1102.4 The following uses are prohibited within a one hundred (100)-year floodplain:

(a) Residential uses with only one (1) or two (2) dwelling units;

(b) Animal sales, care, and boarding;

(c) Community-based institutional facilities;

(d) Daytime care;

(e) Education;

(f) Emergency shelter;

(g) Hospital; and

(h) Lodging.

1102.5 Parking space requirements for the waterfront areas are as follows:

(a) Parking spaces, passenger drop-off areas, access to parking spaces, and access to loading areas, whether required by zoning or not, shall not be located within the waterfront setback area required in Subtitle C § 1102.1 (a); and

(b) Where parking is required, parking spaces for boathouses, marinas, yacht clubs, or other recreational uses to be located elsewhere than on the same lot or part of the lot on which the principal use is located and not located in accordance with Subtitle C § 701.8(b), may be permitted as a special exception, in accordance with the provisions of Subtitle X, Chapter 9 and the applicant demonstrating that one (1) or more of the following criteria are applicable:

(1) The parking spaces will be located to furnish reasonable and convenient parking for patrons of the principal building;

(2) The parking spaces and any support facilities would result in significant adverse impacts on adjacent park land, or the waterfront because of noise, traffic, or other objectionable conditions;

(3) The parking spaces will be adequately screened from adjacent park space and from the waterfront, and shall be designed to prevent storm water run-off directly into the river;

(4) The lack of street frontage or the separation of the use from any publicly accessible street by public park space;

(5) Unusual topography, grades, shape, size, or dimensions of the lot;

(6) The lack of appropriate ingress or egress through existing or proposed streets;

(7) Strip zoning or shallow zoning depth;

(8) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot;

(9) Traffic hazards caused by unusual street grades or other conditions;

(10) The type or location of the associated principal use results in diminished need for parking from what would otherwise be required by zoning regulations;

(11) Reasonable and conveniently located alternatives to the required parking exist and are available to users with minimal impact on adjacent land or development; and

(12) All other requirements of Subtitle C, Chapter 7 will be met.

1102.6 The following structures and projections may encroach into any required waterfront setback:

(a) A structure, including a building, less than four feet (4 ft.) in height above the grade at any point. Any railing required by the Title 12 DCMR D.C. Construction Code, shall be calculated in the measurement of the structure's height;

(b) A fence or retaining wall constructed in accordance with the Title 12 DCMR D.C. Construction Code;

(c) Stairs leading to the first story of the building located entirely above grade, or to a story below grade. The stairs shall include any railing

required by the provisions of the Title 12 DCMR D.C. Construction Code;

(d) An antenna that complies with all other requirements of this title; and

(e) The following elements or structures as defined below:

TABLE C § 1102.6(e):

PROJECTING ELEMENT OR STRUCTURE	MAXIMUM PROJECTIONS
Cornices and eaves.	2 ft.
Sills, leaders, belt courses, and similar ornamental or structural features.	6 in.
Awnings serving a window, porch, or door.	40 in.
A chimney, smokestack, or flue.	5 sq. ft.
A self-contained room air conditioner.	2 ft.
Building components or appurtenances dedicated to the environmental sustainability of the building.	4 ft.

CHAPTER 12 COMBINED LOT PROVISIONS

1200 GENERAL PROCEDURES

1200.1 This chapter contains the general procedural regulations for the administration of combined lot agreements for those zones where a combined lot process is permitted.

1200.2 The allowable residential and nonresidential bulk, or of bonus floor area if applicable, of eligible properties may be apportioned between two (2) or more lots in the same square or other boundaries if otherwise established in a zone, regardless of the limits on floor area; provided, that the aggregate residential and nonresidential floor area may not exceed the limits for the applicable zone.

1200.3 The maximum permitted floor area for all uses and the maximum floor area for nonresidential uses shall be calculated as if the lots were one (1) lot, and the total project shall conform with both limitations.

1200.4 A covenant running with the land and applicable to all properties involved in the apportionment shall be executed by all of the owners of the properties prior to the issuance of any building permits. The covenant shall be for the purpose of insuring that the aggregate residential and nonresidential floor area does not exceed the limits applicable to residential and nonresidential uses, or of bonus floor area if applicable.

1200.5 No transfer of floor area for preferred uses, or of bonus floor area if applicable, shall be effective under this section unless an instrument, legally sufficient in both form and content to effect such a transfer, in a form approved by the Office of the Attorney General, has been entered into among all of the parties concerned, including the District of Columbia where appropriate.

1200.6 A certified copy of the instrument of transfer shall be filed with the Zoning Administrator before approval by the Department of Consumer and Regulatory Affairs of any building permit application affected by such transfer.

1200.7 The document shall be recorded in the Office of the Recorder of Deeds, serving as a notice both to the receiving lot and sending lot of the transfer of floor area for preferred uses or of bonus floor areas.

1200.8 The notice of restrictions and transfer shall run with the title and deed to each affected lot.

CHAPTER 13 ANTENNAS

1300 PURPOSE

1300.1 The purposes of the regulation of antennas, antenna towers, and monopoles as a particular type of structure shall be as follows:

(a) The Zoning Commission has determined that certain antennas, antenna towers, and monopoles, because of their size, shape, design, construction, or location, may affect the welfare or safety of the population and may detract from the streetscape, landscape, skyline, scenic beauty, or aesthetic interests of the District of Columbia, and its role as the Nation's Capital;

(b) The Zoning Regulations therefore regulate the size, height, construction, design, and location of antennas, antenna towers, and monopoles which have the greatest potential for adverse impact on the health, safety, and welfare of the population, and on neighborhood quality, and those which have the greatest potential for adverse impact on the scenic beauty of the Nation's Capital and the national monuments; and

(c) The principal types of antennas, antenna towers, and monopoles regulated are those that, because of their shape, size, or quantity, potentially have the greatest visual impact, and include, by example, large satellite earth station antennas, and certain microwave terrestrial antennas, monopoles, and antenna towers.

1300.2 Consistent with these purposes, the construction of new towers or monopoles shall only be permitted subject to certain placement and construction standards.

1301 CERTIFICATION OF FCC COMPLIANCE FOR TRANSMITTING ANTENNAS

1301.1 No application for a building permit for a transmitting antenna may be considered completed unless it is accompanied by a certification evidencing that the proposed transmitting antenna will comply with the radio frequency (RF) radiation guidelines adopted by the Federal Communications Commission (FCC) and the health and safety regulations adopted by the Occupational Safety and Health Administration.

1301.2 The certification shall be signed by a licensed engineer qualified in RF engineering and shall include the following required information:

(a) The maximum RF radiation to be generated by the proposed antenna or antennas;

(b) The means used to determine the RF levels;

(c) The exact legal name, address of principal place of business, and telephone number of the applicant, certifying engineer, and property owner; and

(d) A site plan, and roof plan if applicable, drawn to scale showing the location of the proposed antennas and all existing antennas on the site, roof, tower, or monopole.

1302 MATTER OF RIGHT ANTENNAS

1302.1 All antennas that comply with the applicable provisions of this chapter are permitted as a matter of right in all zones, except broadcast antennas, which shall not be permitted in residence zones.

1302.2 No signs of any kind, including advertisements, may be placed on any antenna, unless necessary for the safety of the public.

1303 GROUND MOUNTED ANTENNAS

1303.1 All ground mounted antennas, except those regulated by Subtitle C § 1306 or exempted by Subtitle C § 1307, shall comply with the following conditions:

(a) In any R, RA, MU-1, MU-2, MU-10 through MU-14, MU-16, MU-17, MU-23, MU-24, and MU-36 zone, only one (1) antenna may be located per lot and may not exceed a mounted height of twelve feet (12 ft.) at its highest point above the ground on which it is located;

(b) In any R, RA, NC, D, PDR, MU-3 through MU-9, MU-18 through MU-22, MU-25 through MU-35 zones, and any zone of Subtitle K, an antenna may not exceed a mounted height of twenty feet (20 ft.) at its highest point above the ground on which it is located;

(c) The antenna shall be located in either the rear yard or the side yard of the principal building on the lot, except that in the case of a corner lot no antenna may be located in the yard between the principal building structure and a street;

(d) Each part of the antenna shall be set back from all lot lines by a minimum distance of ten feet (10 ft.);

(e) Each antenna installation shall be located or screened such that its visibility is minimized to the greatest practical extent from any:

(1) Public park that is within the Central Washington area as identified in the Comprehensive Plan;

(2) Street that the lot abuts;

(3) Public spaces;

(4) Navigable waterways;

(5) Historic landmarks; or

(6) National monuments;

(f) The antenna, to the greatest practical extent, shall be constructed of materials and colors that blend with the surroundings; and

(g) The antenna installation shall be as small as is practical for its intended use.

1303.2 The term "ground" as used in Subtitle C §§ 1303.1(a) and (b) does not include artificially elevated terrain such as berms or planter boxes but may include graded lawns, terraced landscapes that are formed from the natural grade, and at-grade patios.

1303.3 A proposed ground mounted antenna that does not comply with the above requirements or numeric limit may be permitted through the special exception process set forth in Subtitle C § 1312.

1304 ROOF-MOUNTED ANTENNAS

1304.1 All roof-mounted antennas, except those regulated by Subtitle C § 1306 or exempted by Subtitle C § 1307, shall comply with the following conditions:

(a) Each part of an antenna shall be set back from each edge, excluding party walls, of the roof a minimum distance equal to its total mounted height above the roof;

(b) An antenna may not exceed a total mounted height of twelve feet (12 ft.) above the roof;

(c) Each antenna installation shall be located or screened such that its visibility from public spaces, navigable waterways, historic landmarks, and national monuments is minimized to the greatest practical extent;

(d) An antenna shall be constructed of materials and colors that blend with the surroundings to the greatest practical extent;

(e) Antennas mounted on roofs with outdoor recreation space shall be secured from unauthorized access for a minimum distance of ten feet (10 ft.), by a fence or screen at least five feet (5 ft.) in height; and

(f) Any related equipment cabinet or shelter that is not internal to the building or penthouse shall be:

(1) Constructed of materials and colors that blend with the building or penthouses; and

(2) Located to reduce its visibility from public space to the greatest practical extent.

1304.2 A proposed roof-mounted antenna that does not comply with the above requirements may be permitted through the special exception process set forth in Subtitle C § 1312.

1305 BUILDING-MOUNTED ANTENNAS

1305.1 All building mounted antennas, except those regulated by Subtitle C § 1306 or exempted by Subtitle C § 1307, shall comply with the following conditions:

(a) The top of the antenna shall not extend above the top of the wall, or roof of the building or structure to which it is mounted;

(b) Each antenna installation shall be located or screened such that its visibility from public spaces, navigable waterways, historic landmarks, and national monuments is minimized to the greatest practical extent;

(c) An antenna shall be constructed of materials and colors that blend with the surroundings to the greatest practical extent or shall be screened and/or painted to blend with the surface to which the antenna is attached;

(d) A building-mounted antenna placed on a roof structure with a rooftop outdoor recreation space shall be secured from unauthorized access for a minimum vertical distance of ten feet (10 ft.); and

(e) Any related equipment cabinet or shelter that is not internal to the building or penthouse shall be:

(1) Constructed of materials and colors that blend with the building or penthouses; and

(2) Located to reduce its visibility from public space to the greatest practical extent.

1305.2 A proposed building-mounted antenna that does not comply with the above requirements may be permitted through the special exception process set forth in Subtitle C § 1312.

1306 ANTENNAS LOCATED IN STEALTH STRUCTURES

1306.1 Antennas located in stealth structures may be permitted provided the following conditions are met:

(a) The proposed stealth design provides adequate screening of the antennas;

(b) The proposed structure is not out of scale with the subject property taking into account the size, setbacks, topography, and underlying use of the property;

(c) The primary use of the subject property is not a residential use with only one (1) dwelling unit;

(d) The ground equipment of the proposed antenna be landscaped, fenced, or otherwise screened;

(e) The diameter of a stealth flag pole shall not exceed thirty inches (30 in.) at its base; and

(f) The height of a ground-mounted stealth structure shall be permitted, as a matter-of-right, to a height of eighty feet (80 ft.) in all residential zones and one hundred twenty feet (120 ft.) in all other zones.

1306.2 Any proposed antenna to be located in a stealth structure that does not comply with the above requirements may be permitted through the special exception process set forth in Subtitle C § 1312.

1307 EXEMPTED ANTENNAS

1307.1 The requirements of Subtitle C §§ 1303 through 1306 shall not apply to any antenna that is:

(a) Entirely enclosed within a building, but is not the primary use within the building;

(b) Entirely enclosed on all sides by a penthouse, or an extension of penthouse walls; this subsection shall not be interpreted to permit penthouses in excess of the height limitations for roof structures;

(c) Located entirely behind and no taller than the parapet walls;

(d) No taller than eighteen inches (18 in.) in height and necessary for the implementation of expanded 911 or emergency communications; or

(e) One meter (39.37 inches) or less in diameter designed to receive:

(1) Direct broadcast satellite service, including direct-to-home fixed wireless signals via satellite;

(2) Video programming services via broadband service; or

(3) To transmit fixed wireless signals other than via satellite or local television broadcast signals.

1307.2 For the purposes of Subtitle C § 1307.1, penthouse and parapet walls may include an opaque membrane covering a port in front of the antenna that screens the antenna, blends with the wall and allows the antenna to operate.

1307.3 The requirements of Subtitle C §§ 1303 through 1306 do not apply to the following classes of antennas. The maximum number of antennas within a class that may be placed on a building or located on a lot is as follows:

TABLE C § 1307.3: MAXIMUM NUMBER OF ANTENNAS BY CLASS

Class of Antenna	Maximum Number
Residential type uhf/vhf television and frequency modulation (fm) radio receiving Yagi antenna located on the roof of a principal building, not to exceed 8 ft. horizontally.	2
Whip antennas not exceeding 2½ in. in diameter, with a mounted dimension. (Except that no longer than 12 ft. in any direction, and there located on a principal building, shall be no numeric limit on the number of whip antennas that are dedicated to the provision of emergency services to the District of Columbia.)	2
Residential type super high frequency antenna located on the roof of a principal building, not to exceed 3 ft. in any dimension, excluding the support element.	1
Dish antenna located on the roof of a principal building with a diameter of no more than 4 ft., not taller than 8 ft. as measured from the roof surface on which it is mounted, and set back from the edge of the roof a distance at least equal to its height above the roof. The principal building shall have a height of no less than 25 ft.	1
Whip antenna mounted on a vehicle on private property.	1

1307.4 A proposed antenna which does not comply with the above requirements or numeric limitation set forth in Subtitle C § 1307.3 may be permitted subject to the requirements of Subtitle C §§ 1303 through 1306.

1308 ANTENNA MOUNTED ON ANTENNA TOWERS AND MONOPOLES

1308.1 Antennas may be mounted as a matter of right on an antenna tower or monopole that:

(a) Is located in a PDR zone;

(b) Was approved by, and constructed in accordance, with an order of the Board of Zoning Adjustment; or

(c) Was constructed in accordance with a building permit issued prior to December 21, 2007.

1308.2 An antenna shall not be mounted on an antenna tower or monopole if, as a result of its installation:

(a) The size of the antenna tower or monopole is increased; or

(b) The appearance of the antenna tower or monopole is changed in a manner that adversely impacts the surrounding area.

1308.3 A transmitting antenna shall not be placed lower than fifty feet (50 ft.) above the base of the antenna tower or monopole.

1308.4 An antenna proposed to be mounted on an antenna tower or monopole that does not comply with the above requirements may be permitted through the special exception process set forth in Subtitle C § 1312.

1309 ANTENNA TOWERS AND MONOPOLE IN THE PDR-4 AND PDR-7 ZONES (BY-RIGHT)

1309.1 An antenna tower or monopole, either alone or in conjunction with a studio or in conjunction with the erection, alteration, or use of buildings for transmission or reception equipment, shall be permitted in the PDR-4 and PDR-7 zones as a matter of right; provided, the antenna tower or monopole complies with the conditions set forth in this section.

1309.2 An antenna tower or monopole shall be set back a minimum horizontal distance equal to its total height as measured from the ground, from any residentially developed or zoned property.

1309.3 Except as provided in Subtitle C § 1309.2, each part of an antenna tower or monopole shall be set back from each lot line a minimum distance equal to the greater of twenty feet (20 ft.); or a distance of at least one-third (1/3) of the total mounted height.

1309.4 The height of an antenna tower or monopole shall not exceed the maximum height permitted for structures plus thirty feet (30 ft.) as a matter of right. Any antenna tower or monopole in excess of this height may be permitted if approved by the Board of Zoning Adjustment subject to the conditions of Subtitle C § 1312, subject to Subtitle C § 1309.5.

1309.5 Any antenna tower or monopole with a height in excess of that permitted by the act of June 1, 1910 (36 Stat. 452), as amended, shall not be permitted, unless the height is approved by the Mayor or his or her designee.

1309.6 A written statement shall be provided agreeing to design the proposed antenna tower or monopole for at least three (3) antenna arrays and to make the array

space available on a commercial basis for collocation by any telecommunications service provider whenever unused by the initial telecommunications service provider(s) or the owner.

1309.7 No signs of any kind, including advertisements, may be placed on an antenna tower or monopole, its equipment cabinet or its equipment shelter, unless necessary for the safety of the public.

1310 ANTENNA TOWERS AND MONOPOLES AS PART OF A CAMPUS PLAN

1310.1 An antenna tower or monopole may be permitted, subject to and as a part of an approved campus plan subject to the special exception standards of Subtitle C §§ 1312.1 and 1312.2.

1310.2 No advertising, special art, or campus identification may be placed on an antenna tower or monopole, its equipment cabinet, or its equipment shelter.

1311 OFFICE OF PLANNING REPORT

1311.1 The Zoning Administrator shall not take final action on an application to permit an antenna tower, a monopole, or an antenna not exempted by Subtitle C § 1307 or for the modification of an existing antenna not exempted by Subtitle C § 1311.4 until a report is received from the Office of Planning or thirty (30) days have passed since the application was submitted to the Office of Planning, whichever occurs first.

1311.2 The Office of Planning and the Zoning Administrator may agree to lengthen the time period indicated in Subtitle C § 1311.1, but in no event shall the review period exceed sixty (60) days.

1311.3 The report of the Office of Planning shall provide a copy of the plans, as well as specific criteria and information sufficient to enable the Zoning Administrator to determine whether the antenna complies with the applicable requirements of this chapter.

1311.4 A report from the Office of Planning is not required for:

(a) The modification of a previously permitted collocation including:

(1) Roof or building-mounted antennas that involve a one-to one (1:1) replacement of the antennas or an increase of one (1) antenna to a mount for no more than five (5) antennas per mount or sector, with no change to previously permitted locations or increase in the height of the antennas; or

(2) Stealth mounted antennas including flagpoles and within church steeples that do not change the existing appearance or height of the structure;

(b) Collocation on an existing permitted antenna tower provided the installation would not increase the existing height of the tower by more than ten percent (10%) or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty feet (20 ft.), whichever is greater; or

(c) Installation or maintenance of antenna-related equipment cabinets and shelters and other support structures consistent with the roof structure regulations

1312 ANTENNAS SUBJECT TO BOARD OF ZONING ADJUSTMENT APPROVAL – GENERAL

1312.1 An application for special exception approval shall include the following written and graphic documentation:

(a) A map of area to be served by the new antenna;

(b) A map and explanation of the area being inadequately served that necessitates installation of the proposed antenna;

(c) A map indicating the location of any other antennas and related facility sites providing service by the applicant, and any antenna tower or monopole of any provider, within a two (2) mile radius, including public space, of the proposed antenna site, with identified heights above grade;

(d) A site, and roof plan if applicable, showing all structures and antennas on site;

(e) Elevation drawings of the structure and proposed antennas from all four (4) directions;

(f) A picture of the proposed antenna;

(g) The total mounted height of the antenna relative to the tops of surrounding trees as they presently exist within one-quarter mile (.25 mi.) of the proposed location; and

(h) Other information as may be necessary for impact assessment of the antenna.

1312.2 In addition to any other conditions deemed necessary to mitigate potential adverse impacts, the Board of Zoning Adjustment may impose conditions pertaining to screening, buffering, lighting, or other matter necessary to protect adjacent and

nearby property and may require the removal of any on-site non-conforming, inoperable, or unauthorized antenna.

1313 ANTENNA TOWERS AND MONOPOLES SUBJECT TO BOARD OF ZONING ADJUSTMENT APPROVAL

1313.1 A monopole shall be permitted if approved by the Board of Zoning Adjustment in accordance with Subtitle X of this title, subject to the provisions of this section, in the zones specified in Subtitle C § 1313.2.

1313.2 A monopole may be permitted as a special exception use in the R, RF, RA, MU, D and PDR (except PDR-4 and PDR-7, where antenna towers are permitted as a matter-of-right) zones, and the zones of Subtitle K, where monopoles are permitted as a matter-of-right subject to Subtitle C § 1309.

1313.3 An antenna tower, either alone or in conjunction with a studio, or the erection, alteration, or use of buildings for transmission or reception equipment on the same lot, shall be permitted if approved by the Board of Zoning Adjustment in accordance with Subtitle X of this title and subject to the provisions of this section, in the zone specified in Subtitle C § 1313.4.

1313.4 An antenna tower may be permitted as a special exception in the zones of:

(a) MU, except MU-3;

(b) D;

(c) Those zones listed in Subtitle K; and

(d) PDR, except PDR-4 and PDR-7, where antenna towers are permitted as a matter-of-right.

1313.5 The location, height, and other characteristics of an antenna tower or monopole shall be:

(a) Consistent with the purpose of this chapter;

(b) Designed and available for collocation by other service providers;

(c) Located so the visual impacts are minimized to the greatest practical extent, from neighboring property and adjacent public space, or appropriately screened by landscaping or other techniques to minimize the visibility of the antenna tower or monopole; and

(d) Designed and constructed to preserve existing trees to the greatest practical extent.

1313.6 If an applicant is unable to meet the special exception requirements of section, the Board of Zoning Adjustment may nevertheless grant the application if the applicant demonstrates that:

(a) There is a significant gap in wireless service;

(b) The proposed antenna tower or monopole will fill this gap;

(c) No other mounting options are available;

(d) The site is the only location from which the gap can be filled or, if other sites are available, the antenna tower or monopole at the proposed location will generate the least adverse impacts;

(e) That the height and other physical design characteristics of the proposed antenna tower or monopole do not exceed those which are minimally necessary to fill the gap in wireless service;

(f) That it is using the least intrusive means to provide wireless service necessary to fill the gap in such service; and

(g) That the proposed antenna tower and monopole, even when supporting all possible co-locators will be in full compliance with Federal Communication Commission cumulative and individual RF emission levels.

1313.7 Any antenna tower or monopole with a proposed height in excess of that permitted by the Act of June 1, 1910 (36 Stat. 452), as amended, shall not be permitted, unless the height is approved by the Mayor or his or her designee.

1313.8 An antenna tower or monopole shall be set back a minimum horizontal distance equal to its total height as measured from the ground, from any residentially developed or zoned property.

1313.9 Each part of an antenna tower or monopole shall be set back from each lot line the greater of the following:

(a) Twenty feet (20 ft.); or

(b) A distance of at least one-third (1/3) of the total constructed height.

1313.10 The Board of Zoning Adjustment shall submit the application to the Office of Planning for review and report.

1313.11 The applicant shall provide written and/or graphic documentation of the following:

(a) The area to be served by the proposed new antenna tower or monopole;

(b) The area being inadequately served;

(c) A map indicating the location of any other antenna or related facility sites providing service by the applicant within a two (2)-mile radius, including public space, of the proposed site;

(d) Other towers or monopoles within a two (2)-mile radius of the proposed site with identified heights above grade;

(e) An explanation of why the applicant cannot collocate on an existing tower or monopole;

(f) A written statement agreeing to permit the collocation by other service providers on a commercial basis on an antenna tower;

(g) A written statement agreeing to design a proposed monopole for at least three (3) antenna arrays and to make the array space available on a commercial basis for collocation by any telecommunications service provider whenever unused by the initial telecommunications service provider(s);

(h) The topographic conditions of the area to be served;

(i) The relative height of the antenna tower or monopole to the tops of surrounding trees within one-quarter mile (.25 mi.) radius of the proposed site as they presently exist;

(j) The proposed appearance of the antenna tower or monopole, including exterior finish;

(k) A maintenance plan explaining how the property manager will control ice build-up, falling ice, and potential falling debris; the plan should also address how inoperative antennas will be removed; and

(l) Other information as may be necessary for impact assessment of the antenna tower or monopole.

1313.12 In addition to any other conditions deemed necessary to mitigate potential adverse impacts, the Board of Zoning Adjustment may impose conditions relating to operation, location, screening, collocation, or other requirements as it shall deem necessary to protect adjacent and nearby property, neighborhood character, and the image of the city as the nation's capital, consistent with the general purpose and intent of this chapter and may require the removal of any on-site inoperable or unauthorized antenna as a condition to the approval.

1313.13 No signs of any kind, including advertisements, may be placed on an antenna tower or monopole, its equipment cabinet, or its equipment shelter, unless necessary for the safety of the public.

1314 NONCONFORMING ANTENNAS

1314.1 A nonconforming antenna shall not be altered, modernized, or otherwise replaced, except in conformity with all provisions of this title.

1314.2 If a nonconforming antenna stops functioning, a temporary replacement antenna may be installed, subject to the following conditions:

(a) A permanent replacement antenna cannot be installed as a matter of right;

(b) The temporary installation shall be permitted for one (1) year; and

(c) The cost of the temporary replacement shall not be considered by the Board of Zoning Adjustment as a basis for approval of a special exception to install a conforming replacement.

1314.3 Within three (3) months after the nonconforming antenna stops functioning, the owner or occupant of the land or structure on which the antenna is installed shall apply for a special exception to install a longer term replacement.

1314.4 An antenna that was legally permitted prior to the date of adoption of this chapter shall be considered a conforming antenna.

1314.5 This section does not apply to antenna towers, monopoles, or antenna support structures.

1315 EQUIPMENT CABINET OR SHELTER

1315.1 If an antenna equipment cabinet or shelter is provided on the ground, it shall be subject to the following:

(a) It shall be regulated as an accessory building subject to any applicable criteria within each zone; and

(b) It shall harmonize with the main structure in architectural character, material, and color.

1315.2 If an antenna equipment cabinet or shelter is provided on the roof of a building or structure, it shall be erected or enlarged subject to the following:

(a) It shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located;

(b) It shall harmonize with the main structure in architectural character, material, and color;

(c) It shall not exceed eighteen feet six inches (18 ft., 6 in.) in height above the roof upon which it is located; and

(d) It shall be placed only on a roof of a principal structure and may not be permitted on a roof of any other roof structure or penthouse.

1315.3 The Board of Zoning Adjustment may waive one (1) or more of the requirements of Subtitle C § 1315.2 for good cause shown in accordance with Subtitle Y.

1316 REMOVAL OF ANTENNAS, ANTENNA TOWERS, MONOPOLES, AND RELATED EQUIPMENT

1316.1 Antennas, antenna towers, monopoles, equipment cabinets, or equipment shelters shall be removed at the expense of the property owner if they have not been used for a period of one (1) -year. A one (1) -year extension may be granted by the Board of Zoning Adjustment to this requirement for good cause shown.

CHAPTER 14 RETAINING WALLS

1400 INTRODUCTION

1400.1 The provisions of this chapter shall apply to the construction of a retaining wall in any R or RF zone.

1401 GENERAL PROVISIONS

1401.1 The height of a retaining wall shall be determined as follows:

(a) The height of a retaining wall is the vertical distance measured from the natural grade at the base of the wall to the top of the wall;

(b) When the height of a retaining wall varies, the height shall be measured at the highest point of the wall, from the natural grade at the base of the wall at that point; and

(c) Berms or other similar forms of intermittent terrain elevation shall not be included in measuring retaining wall height.

1401.2 Subject to the height limitations of Subtitle C § 1401.3 through 1401.6, the maximum height of a retaining wall shall be six feet (6 ft.).

1401.3 A retaining wall shall not exceed four feet (4 ft.) in height in the following locations, unless a lower height is required by Subtitle C § 1401.5 and 1401.6:

(a) Along a street frontage or property line;

(b) Within any required side setback;

(c) In the R-1-A, R-1-B, R-6, R-7, R-8, R-9, R-11, R-12, R-14, R-15, R-16, R-19, and R-21 zones, within twenty-five feet (25 ft.) of the rear property line, as measured from the rear property line inward; and

(d) In the R-2, R-3, R-10, R-13, R-17, R-20, and RF zones, within twenty feet (20 ft.) of the rear property line, as measured from the rear property line inward.

1401.4 A retaining wall located along a street frontage on a block with adjacent existing retaining walls shall not be greater in height than the tallest adjacent existing retaining walls up to the maximum height of four feet (4 ft.).

1401.5 A retaining wall located on any area between a property line and a building line shall not exceed a maximum height of forty-two inches (42 in.).

1401.6 A retaining wall abutting an improved alley in the R-3 or RF zones shall not exceed a maximum height of twelve feet (12 ft.).

1401.7 Retaining walls may be tiered or terraced provided that the width of the area between each retaining wall is at least twice the height of the lower retaining wall. The area between each wall shall be pervious and may not be paved or otherwise covered with impervious materials.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

1402 SPECIAL EXCEPTION FROM RETAINING WALL REQUIREMENTS

1402.1 Retaining walls not meeting the requirements of this section may be approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X. In addition to meeting the general conditions for being granted a special exception as set forth in that subtitle, the applicant must demonstrate that conditions relating to the building, terrain, or surrounding area would to make full compliance unduly restrictive, prohibitively costly, or unreasonable.

CHAPTER 15 PENTHOUSES

1500 PENTHOUSE GENERAL REGULATIONS

1500.1 A penthouse, when not in conflict with The Height Act, may be erected to a height in excess of the building height authorized by the zone district, in accordance with the conditions specified in this section.

1500.2 Except for compliance with the setbacks required by Subtitle C § 1502 and as otherwise noted in this section, a penthouse that is less than four feet (4 ft.) in height above a roof or parapet wall shall not be subject to the requirements of this section.

1500.3 A penthouse may house mechanical equipment or any use permitted within the zone, except as follows:

(a) Penthouse habitable space on a detached dwelling, semi-detached dwelling, rowhouse, or flat shall be limited pursuant to Subtitle C § 1500.4;

(b) Within residential zones in which the building is limited to forty feet (40 ft.) maximum, the penthouse use shall be limited to penthouse mechanical space and ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop unenclosed and uncovered deck, terrace, or recreation space;

(c) A nightclub, bar, cocktail lounge, or restaurant use shall only be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9; and

(d) Penthouse habitable space is not permitted on any building within an area bound by I Street, N.W. to the north; Constitution Avenue, N.W. to the south; 19th Street, N.W. to the west, and 13th Street, N.W. to the east.

1500.4 Notwithstanding Subtitle C § 1500.3, a penthouse, other than screening for rooftop mechanical equipment or a guard-rail required by Title 12 of the DCMR, D.C. Construction Code for a roof deck, shall not be permitted on the roof of a detached dwelling, semi-detached dwelling, rowhouse or flat in any zone; however, the Board of Zoning Adjustment may approve a penthouse as a special exception under Subtitle X, Chapter 9, provided the penthouse:

(a) Is no more than ten feet (10 ft.) in height and contains no more than one (1) story; and

(b) Contains only stair or elevator access to the roof, and a maximum of thirty square feet (30 sq. ft.) of storage space ancillary to a rooftop deck.

1500.5 For the administration of this section, mechanical equipment shall not include telephone equipment, radio, television, or electronic equipment of a type not necessary to the operation of the building or structure. Antenna equipment cabinets and antenna equipment shelters shall be regulated by Subtitle C, Chapter 13.

1500.6 All penthouses and mechanical equipment shall be placed in one (1) enclosure, except that a rooftop egress stairwell enclosure not containing any other form of habitable or mechanical space may be contained within a separate enclosure, and shall harmonize with the main structure in architectural character, material, and color.

1500.7 When roof levels vary by one (1) floor or more or when separate elevator cores are required, there may be one (1) enclosure for each elevator core at each roof level.

1500.8 When consisting solely of mechanical equipment, the equipment shall be enclosed fully as prescribed in Subtitle C §§ 1500.6 and 1500.7 except that louvers may be provided. A roof over a cooling tower need not be provided when the tower is located at or totally below the top of enclosing walls.

1500.9 Enclosing walls of the penthouse shall be of equal, uniform height as measured from roof level, except that:

(a) Enclosing walls of penthouse habitable space may be of a single different height than walls enclosing penthouse mechanical space;

(b) For a penthouse containing no habitable space, enclosing walls of penthouse mechanical space shall be of a single uniform height except walls enclosing an elevator override may be of a separate uniform height; and

(c) Required screening walls around uncovered mechanical equipment may be of a single, different uniform height.

1500.10 Enclosing walls of a penthouse from roof level shall rise vertically to a roof, with a slope not exceeding twenty percent (20%) from vertical.

1500.11 For residential buildings, the construction of penthouse habitable space, except penthouse habitable space devoted exclusively to communal rooftop recreation or amenity space for the primary use of residents of the residential building, is subject to the Inclusionary Zoning set-aside provisions of Subtitle C, Chapter 10 Inclusionary Zoning.

1500.12 For non-residential buildings, the construction of penthouse habitable space, including all forms of habitable space, shall trigger the affordable housing requirement as set forth in Subtitle C § 1505.

1501 PENTHOUSE HEIGHT

1501.1 Permitted penthouse height and number of stories shall be as prescribed in the development standards for the applicable zone.

1501.2 Permitted penthouse height and number of stories for a building constructed pursuant to the planned unit development (PUD) shall be as prescribed for the PUD standards for the applicable zone, pursuant to Subtitle X, Chapter 3.

1501.3 Architectural embellishments consisting of spires, tower, domes, minarets, and pinnacles may be erected to a greater height than any limit prescribed by these regulations or the Height Act, provided the architectural embellishment does not result in the appearance of a raised building height for more than thirty percent (30%) of the wall on which the architectural embellishment is located.

1501.4 Pursuant to § 5 of the Height Act, D.C. Official Code § 601.05(h), a penthouse may be erected to a height in excess of that permitted therein if authorized by the Mayor or his or her designee and subject to the setback and other restrictions stated in the Act.

1502 PENTHOUSE SETBACKS

1502.1 Penthouses, screening around unenclosed mechanical equipment, rooftop platforms for swimming pools, roof decks, trellises, and any guard rail on a roof shall be setback from the edge of the roof upon which it is located as follows:

(a) A distance equal to its height from the front building wall of the roof upon which it is located;

(b) A distance equal to its height from the rear building wall of the roof upon which it is located;

(c) A distance equal to its height from the side building wall of the roof upon which it is located if:

(1) In any zone, it is on a building used as a detached dwelling, semi-detached dwelling, rowhouse or flat, that is:

(A) Adjacent to a property that has a lower or equal permitted matter-of-right building height, or

(B) On a corner lot adjacent to a public or private street or alley right-of-way or a public park;

(2) In the R-1 through R-4 zones, it is on any building not described in Subtitle C § 1502.1(c)(1) that is:

(A) Adjacent to a property that has a lower or equal permitted matter- of- right building height, or

(B) On a corner lot adjacent to a public or private street or alley right-of-way or a public park;

(3) For zones not listed in paragraph Subtitle C § 1502.1(c)(2), it is on a building not described in paragraph Subtitle C § 1502.1(c)(1) that is located adjacent to a property that has a lower permitted matter-of-right building height;

(4) For any zone, it is on a building adjacent to a property improved with a designated landmark or contributing structure to a historic district that is built to a lower height regardless of the permitted matter-of-right building height; and

(5) For any zone, it is on a building with walls that border any court other than closed courts;

(d) A distance equal to one-half (0.5) of its height from any side building wall of the roof upon which it is located that is not adjoining another building wall and not meeting the conditions of paragraphs Subtitle C §§ 1502.1(c)(1) through (5); or

(e) A distance equal to two (2) times its height from any building wall of the roof upon which it is located which fronts onto Independence Avenue, S.W. between 12th Street, S.W. and 2nd Street, S.W., or fronting onto Pennsylvania Avenue, N.W. between 3rd Street, N.W and 15th Street, N.W., subject to any penthouse constraints contained within adopted PADC Guideline documents.

1503 PENTHOUSE AREA

1503.1 For the purposes of calculating floor area ratio for the building, the aggregate square footage of all penthouse levels or stories measuring six and one-half feet (6.5 ft.) or more in height shall be included in the total floor area ratio permitted for the building, with the following exceptions:

(a) Penthouse mechanical space;

(b) Communal recreation space;

(c) Penthouse habitable space, other than as exempted in Subtitle C § 1503.1(b) with a floor area ratio of less than four-tenths (0.4); and

(d) Mechanical equipment owned and operated as a penthouse by a fixed right-of-way public mass transit system.

1503.2 Penthouses shall not exceed one-third (1/3) of the total roof area upon which the penthouse sits in the following areas:

(a) Zones where there is a limitation on the number of stories other than the MU-8, MU-20, or NC-13 zones; and

(b) Any property fronting directly onto Independence Avenue, S.W. between 12th Street, S.W. and 2nd Street, S.W.

1503.3 Areas within curtain walls without a roof used where needed to give the appearance of one (1) structure shall not be counted in floor area ratio, but shall be computed as a roof structure to determine if they comply with Subtitle C § 1503.2.

1504 RELIEF TO PENTHOUSE REQUIREMENTS

1504.1 Relief to the requirements of Subtitle C §§ 1506 – 1500.10 and 1502 may be granted as a special exception by the Board of Zoning Adjustment subject to Subtitle X, Chapter 9 and subject to the following considerations:

(a) The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;

(b) The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;

(c) The relief requested would result in a roof structure that is visually less intrusive;

(d) Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;

(e) Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and

(f) The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

1504.2 Relief shall not be granted to the setback requirements of Subtitle C § 1502 for a roof structure located on a building constructed to the maximum height allowed by the Height Act.

1504.3 A request to add penthouse habitable space to a building approved by the Zoning Commission as a planned unit development or through the design review requirements of Subtitle X, Chapters 3 and 6 prior to January 8, 2016, may be filed as a minor modification for placement on the Zoning Commission consent calendar, pursuant to Subtitle Z § 703, provided:

(a) The item shall not be placed on a consent calendar for a period of thirty (30) days minimum following the filing of the application; and

(b) The Office of Planning shall submit a report with recommendation a minimum of seven (7) days in advance of the meeting.

1504.4 In addition to meeting the requirements of Subtitle X, Chapter 9, an application made pursuant to Subtitle C § 1504.3 shall include:

(a) A fully dimensioned copy of the approved and proposed roof -plan and elevations as necessary to show the changes;

(b) A written comparison of the proposal to the Zoning Regulations; and

(c) Verification that the affected Advisory Neighborhood Commission has been notified of the request.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

1505 AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION ON A NON-RESIDENTIAL BUILDING OF PENTHOUSE HABITABLE SPACE

1505.1 The owner of a non-residential building proposing to construct penthouse habitable space shall produce or financially assist in the production of residential uses that are affordable to low-income households, as those households are defined by Subtitle C, Chapter 10, in accordance with this section.

1505.2 The requirements of this provision shall be triggered by the filing of a building permit application that, if granted, would result in the amount of penthouse habitable space exceeding one thousand square feet (1,000 sq. ft.).

1505.3 The requirements of this section shall not apply to properties owned by the District government or the Washington Metropolitan Area Transit Authority and used for government or public transportation purposes.

1505.4 Qualifying residential uses include single dwelling units, flats, multiple dwelling units, including apartment houses, rooming houses, and boarding houses, but shall not include transient accommodations, all as defined in Subtitle B.

1505.5 If the owner constructs or rehabilitates the required housing, the provisions of Subtitle C §§ 1505.6 through 1505.11 shall apply.

1505.6 The gross square footage of new or rehabilitated housing shall equal:

(a) Not less than one-fourth (1/4) of the proposed penthouse habitable space if the required housing is situated on an adjacent property;

(b) Not less than one-third (1/3) of the proposed penthouse habitable space if the location of the required housing does not comply with paragraph (a) of this subsection, but is nonetheless within the same Advisory Neighborhood Commission area as the property, or if it is located within a Housing Opportunity Area as designated in the Comprehensive Plan; and

(c) Not less than one-half (0.5) of the proposed penthouse habitable space if the location of the required housing is other than as approved in paragraphs (a) and (b) above.

1505.7 If the housing is provided as new construction, the average square feet of gross floor area per dwelling or per apartment unit shall be not less than eight hundred and fifty square feet (850 sq. ft.); provided, that no average size limit shall apply to rooming houses, boarding houses, or units that are deemed single-room occupancy housing.

1505.8 For purposes of this section, the word "rehabilitation" means the substantial renovation of housing for sale or rental that is not habitable for dwelling purposes because it is in substantial violation of the Housing Regulations of the District of Columbia (14 DCMR).

1505.9 In the case of rental housing, the required housing shall be maintained as affordable dwelling units for not less than twenty (20) years beginning on the issuance date of the first certificate of occupancy for the residential development, or if for a single dwelling unit, the effective date of the first lease agreement.

1505.10 If the required housing is provided for home ownership, it shall be maintained as affordable dwelling units for not less than twenty (20) years beginning on the issuance date of the first certificate of occupancy for the residential development, or if for a single dwelling unit, the effective date of the first sales agreement.

1505.11 No certificate of occupancy shall be issued for the owner's building to permit the occupancy of penthouse habitable space until a certificate of occupancy has been issued for the housing required pursuant to this section, or in the case of a residential unit for which a certificate of occupancy is not required, prior to the final building inspection.

1505.12 If the owner instead chooses to contribute funds to a housing trust fund, as defined in Subtitle B, the provisions of Subtitle C §§ 1505.13 through 1505.16 shall apply.

1505.13 The contribution shall be equal to one-half (0.5) of the assessed value of the proposed penthouse habitable space.

1505.14 The assessed value shall be the fair market value of the property as indicated in the property tax assessment records of the Office of Tax and Revenue no earlier than thirty (30) days prior to the date of the building permit application to construct the penthouse habitable space.

1505.15 The contribution shall be determined by dividing the assessed value per square foot of land that comprises the lot upon which the building is or will be located by the maximum permitted non-residential FAR and multiplying that amount times the penthouse habitable space to be constructed.

1505.16 Not less than one-half (0.5) of the required total financial contribution shall be made prior to the issuance of a building permit for construction of the penthouse habitable space, and the balance of the total financial contribution shall be made prior to the issuance of a certificate of occupancy for any or all of the building's penthouse habitable space.

CHAPTER 16 PUBLIC EDUCATION, RECREATION OR LIBRARY BUILDINGS OR STRUCTURES

1600 GENERAL PROVISIONS

1600.1 The provisions of this chapter control the height and bulk of public education buildings and structures, public recreation and community centers, and public libraries.

1601 DEVELOPMENT STANDARDS

1601.1 Public education buildings and structures, public recreation and community centers, or public libraries subject to this chapter, but not otherwise regulated by the development standards of this chapter, shall be subject to the development standards for the zone in which the building or structure is proposed.

1602 HEIGHT

1602.1 A public school building or structure may be erected to a height as follows:

(a) In an RF-3 zone, a public school building or structure may be erected to a height not exceeding forty feet (40 ft.);

(b) In an R, RF-1, or RF-2 zone, a public school building or structure may be erected to a height not exceeding sixty feet (60 ft.);

(c) In an RF-4, RF-5, RA, and RC-1 zone, a public school building or structure may be erected to a height not exceeding ninety feet (90 ft.); and

(d) In all other zones a public school building or structure may be erected to the maximum height permitted within the zone.

1602.2 A public recreation and community center may be erected to a height as follows:

(a) In an R, RF, or RA zone a public recreation and community center may be erected to a height not to exceed forty-five feet (45 ft.);

(b) In the RF-3 and MU-11 zone a public recreation and community center may be erected to a height not to exceed forty feet (40 ft.); and

(c) In all other zones, a public recreation and community center may be erected to the maximum height permitted within the zone.

1602.3 A public library may be built to the maximum height permitted within the zone located.

1602.4 A college or university building or structure covered by an approved campus plan pursuant to Subtitle X, Chapter 1 may be erected to a height not exceeding sixty feet (60 ft.) in an RA-2, RA-7, RA-8, and RA-9 zone.

1603 LOT OCCUPANCY

1603.1 A public recreation and community center shall not exceed the maximum lot occupancy as required within the zone in which the public recreation and community center is located, except as established in Subtitle C § 1603.3.

1603.2 In an R or RF zone, a public recreation and community center may be permitted a lot occupancy not to exceed forty percent (40%), if approved by the Board of Zoning Adjustment as a special exception subject to Subtitle C § 1610 and provided that the agency shows that the increase is consistent with agency policy of preserving open space.

1603.3 A public recreation and community center shall not exceed a maximum lot occupancy of twenty percent (20%) in the following zones:

(a) All R, RF, RA zones; and

(b) MU-1, MU-2, MU-10, MU-11, MU-12, MU-13, MU-14, MU-15, MU-16, MU-22, MU-23, and MU-29 zones.

1603.4 Public education buildings and structures and public libraries shall not occupy a lot in excess of the maximum lot occupancy as set forth in the following table:

TABLE C § 1603.4: MAXIMUM LOT OCCUPANCY FOR PUBLIC EDUCATION BUILDINGS AND STRUCTURES AND PUBLIC LIBRARIES

Zone District	Structure	Maximum Percent of Lot Occupancy
RA-6, RA-7, RA-8, RA-9	Public school buildings and structures	40%
	Public library	40%
R-1-A, R-1-B, R-2, R-3, R-6, R-7, R-8, R-9, R-10, R-11, R-12, R-13, R-14, R-15, R-16, R-17, R-19, R-20, R-21, RF-1, RF-2, RF-3	Public school buildings and structures	60%
	Public library	40%
RA-1, RA-2, RC-1	Public school buildings and structures	60%
	Public library	60%
RA-3, RA-4, RA-5, RA-10, RA-11	Public school buildings and structures	75%
	Public library	75%
All other zones	Public school buildings and structures	None prescribed
	Public library	None prescribed

1603.5 A public education building or structure may occupy the lot upon which it is located in excess of the permitted percentage of lot occupancy prescribed in this section subject to all of the following conditions:

(a) The portion of the building, excluding closed court, exceeding the lot coverage shall not exceed twenty feet (20 ft.) in height or two (2) stories; and

(b) The total lot occupancy shall not exceed seventy percent (70%) in the R-2, R-3, R-10, R-13, R-17, R-20, and RF zones.

1603.6 The roof area of a public education building or structure shall be used only for open space, recreation areas, or other athletic and field equipment areas in lieu of similarly used space normally located at ground level provided direct pedestrian access not less than ten feet (10 ft.) in width from at least two (2) public rights-of-way shall be provided to each roof area used for these purposes.

1603.7 A public recreation and community center may be permitted a lot occupancy not to exceed forty percent (40%), if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle C § 1610 and provided that the agency shows that the increase is consistent with agency policy of preserving open space.

1603.8 A public library may be permitted a lot occupancy in excess of that allowed in the development standards of this chapter if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle C § 1610.

1604 DENSITY – GROSS FLOOR AREA (GFA) AND FLOOR AREA RATIO (FAR)

1604.1 A public recreation and community center shall not exceed a gross floor area of forty thousand square feet (40,000 sq. ft.) in the following zones:

(a) All R, RF, RA zones; and

(b) MU-1, MU-2, MU-10, MU-11, MU-12, MU-13, MU-14, MU-15, MU-16, MU-22, MU-23, and MU-29 zones.

1604.2 Public education buildings and structures, public recreation and community centers, and public libraries shall be permitted a maximum floor area ratio as set forth in the following table:

TABLE C § 1604.2: FAR FOR PUBLIC EDUCATION BUILDINGS AND STRUCTURES, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES

Zone	Structure	Max. FAR
R-1-A, R-1-B, R-2, R-6, R-7, R-8, R-9, R-10, R-11, R-12, R-14, R-15, R-16, R-19, R-21	Public libraries	None prescribed
	Public school buildings and structures	0.9
	Public recreation and community center	0.9

Zone	Structure	Max. FAR
	All other structures	None prescribed
R-3, R-13, R-17, R-20	Public libraries	None prescribed
	Public school buildings and structures	1.8
	Public recreation and community center	1.8
	All other structures	None prescribed
RF-1, RF-2, RF-3	Public libraries	None prescribed
	Public school buildings and structures	1.8
	Public recreation and community center	1.8
	All other structures	None prescribed
RF-4, RF-5	Public libraries	2.0
	Public school buildings and structures	1.8
	Public recreation and community center	1.8
	All other structures	None prescribed
RA-1, RA-6	Public libraries	2.0
	Public school buildings and structures	1.8
	Public recreation and community center	0.9
	All other structures	0.9
RA-2, RA-7, RA-8, RC-1	Public libraries	2.0
	Public school buildings and structures	1.8
	Public recreation and community center	1.8
	All other structures	1.8
RA-3	Public libraries	3.0
	Public school buildings and structures	3.0
	Public recreation and community center	1.8
	All other structures	3.0
RA-4, RA-9	Public libraries	3.5
	Public school buildings and structures	3.0
	Public recreation and community center	1.8
	All other structures	3.5
RA-5, RA-10	Public libraries	5.0
	Public school buildings and structures	3.0
	Public recreation and community center	1.8
	All other structures	5.0
MU-1, MU-2, MU-15, MU-16, MU-23	Public libraries	As permitted by zone
	Public school buildings and structures	3.0
	Public recreation and community center	1.8
	All other structures	As permitted by zone
M-3	Public school buildings and structures	1.8
	All other structures	As permitted by zone
MU-10, MU-22, MU-29	Public school buildings and structures	3.0
	All other structures	As permitted by zone
All other zones	All structures	As permitted by zone

1604.3 A public recreation and community center in an R zone may exceed 0.9 FAR in those zones where it is so limited, up to a maximum of 1.8 FAR, if approved by the Board of Zoning Adjustment as a special exception pursuant to the provisions of Subtitle C § 1610.

1604.4 A public recreation and community center may have a density up to 1.8 FAR in the RA-1 zone, if approved by the Board of Zoning Adjustment as a special exception pursuant to the provisions of Subtitle C § 1610.

1605 MINIMUM LOT SIZE AND DIMENSIONS

1605.1 Unless otherwise permitted or required, use of an existing or creation of a new lot for public school buildings or structures shall be subject to the following minimum lot dimensions as set forth in the following table:

TABLE C § 1605.1: MINIMUM LOT DIMENSIONS FOR PUBLIC SCHOOL BUILDINGS OR STRUCTURES

Zone	Structure	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)
R-1-A	Public school or structure	15,000	120
R-1-B	Public school or structure	15,000	120
R-2, R-10	Public school or structure	9,000	120
R-3, R-13, R-17, R-20	Public school or structure	9,000	120
RF (R-4)	Public school or structure	9,000	120
RA-1, RA-6	Public school or structure	9,000	80
RA-2, RA-7, RA-8, RA-9, RC-1	Public school or structure	9,000	80
RA-3, RA-4, RA-5, RA-10	Public school or structure	None prescribed	80
All other zones	All other structures	None prescribed	None prescribed

1605.2 For public education buildings or structures, minimum lot area may include adjacent parcels under the same ownership that are separated only by a public alley.

1605.3 For public education buildings or structures on split-zoned lots, the minimum lot width and minimum lot area requirements, if any, of the less restrictive zone shall apply to the entire lot as long as the lot was in existence as of February 13, 2006.

1605.4 For public education buildings or structures on a lot with more than one (1) street front, the minimum lot width may include the measurement of all street frontages, provided the lot width can be measured without interruption by another lot.

1605.5 Except in the RA-1 zone, a public recreation and community center in an R or RA zone shall not exceed a maximum gross floor area of forty thousand square feet (40,000 sq. ft.), unless approved by the Board of Zoning Adjustment as a special exception pursuant to the provisions of Subtitle C § 1610.

1606 REAR YARD

1606.1 A rear yard shall be provided for each public education building and structure, public recreation and community center, or public library located in any R, RF, or RA zone, the minimum depth of which shall be as set forth in the following table:

TABLE C § 1606.1: REAR YARD FOR PUBLIC EDUCATION BUILDING AND STRUCTURE, PUBLIC RECREATION AND COMMUNITY CENTER, OR PUBLIC LIBRARY

Zone	Minimum Rear Yard (Feet)
R-1-A, R-1-B, R-6, R-7, R-8, R-9, R-11, R-12, R-14, R-15, R-16, R-19, R-21	25 feet
R-2, R-3, R-10, R-13, R-17, R-20, all RF, RA-1, RA-6	20 feet
RA-2, RA-3, RA-4, RA-7, RA-8, RA-9, RC-1	4 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 15 feet
RA-5, RA-10	3 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet

1606.2 In the case of a corner lot abutting three (3) or more streets, the rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

1606.3 In the case of a lot proposed to be used by a public education building and structures public recreation and community center, or public library that abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, no rear yard shall be required.

1607 SIDE YARD

1607.1 In the case of a lot proposed to be used by a public education building and structure, public recreation and community center, or public library that abuts or adjoins on one (1) or more side lot lines a public open space, recreation area, or reservation, the required side yard shall not be required.

1608 COURTS

1608.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE C § 1608.1: MINIMUM DIMESIONS FOR A COURT

Open Court Width:	Closed Court Width	Closed Court Area:
2.5 in./ft. of height of court; 6 ft. minimum.	2.5 in./ft. of height of court; 12 ft. min.	Twice the square of the required width of court dimension; 250 sq. ft. minimum.

1609 PERVIOUS SURFACE

1609.1 In an R zone, the minimum percentage of pervious surface of a lot shall be thirty percent (30%).

1609.2 In an RF zone, a minimum percentage of pervious surface of a lot used for a public recreation and community center shall be based on lot size as set forth in the following table:

TABLE C § 1609.2: MINIMUM PERCENTAGE OF PERVIOUS SURFACE FOR A PUBLIC RECREATION AND COMMUNITY CENTER

Minimum Lot Size	Minimum Percentage of Pervious Surface
Less than 1,800 square feet	0%
1,801 to 2,000 square feet	10%
Larger than 2,000 square feet	20%

1610 SPECIAL EXCEPTION

1610.1 Exceptions to the development standards for public recreation and community centers of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.

1610.2 Exceptions to the development standards of this chapter for public education buildings and structures or a public library shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.

CHAPTER 17 PLAZA

1700 INTRODUCTION

1700.1 Plaza regulations are intended to provide spaces in private developments that serve as transitional spaces between streets or pedestrian rights-of-ways and the entrances of buildings. These spaces are intended for public use, and may also be used for temporary commercial displays and other activities, such as café seating. The plaza regulations are intended to ensure that such spaces are appropriately designed, including suitable lighting and landscaping.

1700.2 Plaza space required by specific zones and subject to the standards of this chapter are intended to be publically accessible and are encouraged to be built adjoining other plazas to maximize open space.

1700.3 Plaza regulations apply only on lots of ten thousand square feet (10,000 sq. ft.) or more in area in the MU-10, MU-22, MU-29, and CG-4 zones.

1701 GENERAL PROCEDURES

1701.1 Plaza space for new development subject to this chapter shall be located immediately adjacent to the main entrance to the principal building or structure on the lot, and shall serve as a transitional space between the street or pedestrian right-of-way and the building or structure.

1701.2 Plaza space shall be open to the sky or have a minimum vertical clearance of one (1) story or ten feet (10 ft.).

1701.3 Plaza space shall be suitably lighted and landscaped for public use, and may be utilized for temporary commercial displays.

1701.4 Plaza space shall be open and available to the general public on a continuous basis.

1701.5 Required plaza space shall not be charged against the gross floor area of the building.

1701.6 Plaza requirements shall be provided as a percentage of lot area.

1701.7 A plaza may be used by building occupants and visitors for:

(a) Café seating;

(b) Temporary commercial displays;

(c) Access to mass transportation facilities;

(d) Art displays; or

(e) Other similar uses.

1701.8 Where preferred use space is required and is provided, the requirement to provide plaza space shall not apply.

CHAPTER 18 COURTS

1800 INTRODUCTION

1800.1 Where a court is provided for a building or portion of a building it shall be provided with the area and dimensions required in each zone or as prescribed in the applicable subtitle.

1800.2 For the purposes of determining court area and dimensions, "residential uses" shall include dwellings, flats, multiple dwellings, hospitals, and community-based residential facilities.

1801 RULES OF MEASUREMENT

1801.1 In the case of a building devoted to both residential and nonresidential uses, the minimum width and area of a court shall be computed as follows:

(a) When the residential and nonresidential uses are located on different floors of the building, the width and area requirements shall be computed for each use at the plane of each floor of the building; and

(b) When the residential and nonresidential uses are located on the same floor of the building, the width and area requirements for that plane shall be computed based on the requirements for a residential building.

1801.2 No required opening for the admission of light and natural ventilation shall open onto a court niche where the ratio between the width of court niche and the depth of court niche is less than two to one (2:1).

1801.3 No portion of a court niche shall be farther than three feet (3 ft.) from a point where the court niche is less than three feet (3 ft.) wide.

1801.4 In the case of an alteration affecting the amount of light and ventilation required by other municipal law or regulation in an existing structure, no legally required window shall be permitted to open onto a court that does not comply with the dimensions in this title.

TITLE 11 – ZONING

SUBTITLE D RESIDENTIAL HOUSE (R) ZONES

TITLE 11 – ZONING D-1

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CHAPTER 1 INTRODUCTION TO RESIDENTIAL HOUSE (R) ZONES

100 GENERAL PROVISIONS

100.1 The Residential House (R) zones are residential zones, designed to provide for stable, low- to moderate-density residential areas suitable for family life and supporting uses.

100.2 In addition to the purpose statements of individual chapters, the provisions of the R zones are intended to:

(a) Provide for the orderly development and use of land and structures in areas predominantly characterized by low- to moderate-density residential development;

(b) Recognize and reinforce the importance of neighborhood character, walkable neighborhoods, housing affordability, aging in place, preservation of housing stock, improvements to the overall environment, and low- and moderate-density housing to the overall housing mix and health of the city;

(c) Allow for limited compatible accessory and non-residential uses;

(d) Allow for the matter-of-right development of existing lots of record;

(e) Establish minimum lot area and dimensions for the subdivision and creation of new lots of record; and

(f) Discourage multiple dwelling unit development.

100.3 For those zones with geographic identification, the boundaries are cited in Subtitle W and identified on the official Zoning Map. When there is a conflict between the official Zoning Map and the boundaries described in Subtitle W, the Office of Zoning shall determine the correct boundaries through a zoning certification.

101 DEVELOPMENT STANDARDS

101.1 The bulk of structures in the R zones shall be controlled through the combined general development standards of this subtitle, the zone-specific development standards of this subtitle, and the requirements and standards of Subtitle C.

101.2 The development standards are intended to:

(a) Control the bulk or volume of structures, including height, floor area ratio (FAR), and lot occupancy;

(b) Control the location of building bulk in relation to adjacent lots and streets, by regulating rear yards, side yards, and the relationship of buildings to street lot lines;

(c) Regulate the mixture of uses; and

(d) Promote the environmental performance of development.

101.3 Development standards may be varied or waived by the Board of Zoning Adjustment as a variance or, when permitted in this title, as a special exception established in Subtitle X. Additional zone specific special exception criterion, if applicable, shall be considered by the Board and are referenced in this subtitle.

101.4 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this Subtitle can be found in Subtitle C.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

102 USE PERMISSIONS

102.1 Use permissions for the R zones are as specified in Subtitle U.

103 PARKING

103.1 Parking requirements for the R zones are as specified in Subtitle C.

104 PUBLIC EDUCATION, RECREATION, OR LIBRARY BUILDINGS AND STRUCTURES

104.1 Public education buildings and structures, public recreation and community centers, or public libraries in the R zones shall be permitted subject to the conditions of Subtitle C, Chapter 16.

104.2 Development standards not otherwise addressed by Subtitle C, Chapter 52 shall be those development standards for the zone in which the building or structure is proposed.

105 INCLUSIONARY ZONING

105.1 Inclusionary zoning requirements for the R zones, except R-1-A and R-1-B, are as specified in Subtitle C, Chapter 10.

106 ANTENNAS

106.1 Antennas shall be subject to the regulations of Subtitle C, Chapter 13.

CHAPTER 2 GENERAL DEVELOPMENT STANDARDS (R)

200 GENERAL PROVISIONS

200.1 The provisions of this chapter apply to all zones except as may be modified or otherwise provided for in a specific zone.

200.2 When modified or otherwise provided for in the development standards for a specific zone, the modification or zone-specific standard shall apply.

201 MAXIMUM NUMBER OF DWELLING UNITS

201.1 In all R zones, one (1) principal dwelling unit per lot of record shall be permitted as a matter-of-right.

201.2 In all R zones, one (1) accessory apartment shall be permitted per lot of record subject to the use permissions specified in Subtitle U.

201.3 The minimum lot width and minimum lot area requirements for the creation of a new lot of record in the R zones are set forth in each zone.

202 LOT OCCUPANCY

202.1 In the R zones, a detached or semi-detached building shall not be considered an attached unit for the purposes of lot occupancy through the use of building or structure additions that reduce an otherwise required or permitted side yard for a detached or semi-detached dwelling.

202.2 In the R zones, a place of worship shall be permitted a lot occupancy of sixty percent (60%) maximum, unless otherwise limited by the specific zone.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

203 COURT

203.1 Where a court is provided, the court shall have the following minimum dimensions:

TABLE D § 203.1: MINIMUM COURT DIMENSIONS

Type of Structure	Min. Width Open Court	Min. Width Closed Court	Min. Area Closed Court
Single dwelling unit	Not applicable	Not applicable	Not applicable

Type of Structure	Min. Width Open Court	Min. Width Closed Court	Min. Area Closed Court
All other structures	2.5 inches per 1 ft. of height of court, but not less than 6 ft.	2.5 inches per foot of height of court, but not less than 12 ft.	Twice the square of the required width of court dimension based on the height of the court, but not less than 250 ft.

204 PENTHOUSES

204.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

205 REAR YARD

205.1 A rear yard shall be provided for each structure located in an R zone, the minimum depth of which shall be as set forth in each zone chapter.

205.2 In the case of a lot abutting three (3) or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

205.3 In the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.

206 SIDE YARD

206.1 Side yard requirements are as provided in each zone.

207 HEIGHT

207.1 Except in the R-11, R-12 and R-13 Naval Observatory Residential zones, and except as provided in Subtitle D § 207.9, the maximum height of buildings or structures specified in each R zone may be exceeded as provided in this section.

207.2 A spire, tower, dome, pinnacle, minaret serving as an architectural embellishment, or antenna may be erected to a height in excess of that which this section otherwise authorizes in the district in which it is located.

207.3 A chimney or smokestack may be erected to a height in excess of that authorized in the district in which it is located when required by other municipal law or regulation.

207.4 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.); provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the natural grade.

207.5 A place of worship may be erected to a height of sixty feet (60 ft.); provided, that it shall not exceed the number of stories permitted in the district in which it is located.

207.6 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.); provided, that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each one foot (1 ft.) of height in excess of that authorized in the district in which it is located.

207.7 A public school building or structure may be erected to a height not exceeding sixty feet (60 ft.).

207.8 A public recreation and community center in any residential zone may be erected to a height not to exceed forty-five feet (45 ft.).

207.9 Where required by the Height Act, a height in excess of that permitted shall be authorized by the Mayor.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 3 RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3

300 PURPOSE AND INTENT

300.1 The purposes of the R-1-A and R-1-B zones are to:

(a) Protect quiet residential areas now developed with detached dwellings and adjoining vacant areas likely to be developed for those purposes; and

(b) Stabilize the residential areas and promote a suitable environment for family life.

300.2 The R-1-A zone is intended to provide for areas predominantly developed with detached houses on large lots.

300.3 The R-1-B zone is intended to provide for areas predominantly developed with detached houses on moderately sized lots.

300.4 The purpose of the R-2 zone is to:

(a) Provide for areas with semi-detached dwellings; and

(b) Protect these areas from invasion by denser types of residential development.

300.5 The R-2 zone is intended to provide for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached dwellings.

300.6 The purpose of the R-3 zone is to allow for row dwellings, while including areas within which row dwellings are mingled with detached dwellings, semi-detached dwellings, and groups of three (3) or more row dwellings.

300.7 The R-3 zone is intended to permit attached rowhouses on small lots.

301 DEVELOPMENT STANDARDS

301.1 The development standards in Subtitle D §§ 302 through 308 modify the general development standards in Subtitle D, Chapter 2.

302 DENSITY - LOT DIMENSIONS

302.1 Except as prescribed in other provisions of this title, the minimum dimensions of lots in the R-1-A, R-1-B, R-2, and R-3 zones shall be as set forth in the following table:

TABLE D § 302.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.) for building type; applicable to all zones in left column	Minimum Lot Area (sq. ft.)
R-1-A	75	7,500
R-1-B	50	5,000
R-2	40 (detached) 32 (IZ detached) 30 (semi-detached) 25 (IZ semi-detached) 40 (all other structures)	4,000 (detached) 3,200 (IZ detached) 3,000 (semi-detached) 2,500 (IZ semi-detached) 4,000 (all other structures)
R-3	40 (detached) 30 (semi-detached) 20 (attached) 16 (IZ attached) 40 (all other structures)	4,000 (detached) 3,000 (semi-detached) 2,000 (attached) 1,600 (IZ attached) 4,000 (all other structures)

303 HEIGHT

303.1 The maximum permitted building height, not including the penthouse, in the R-1-A, R-1-B, R-2, and R-3 zones shall not exceed forty feet (40 ft.) and the number of stories shall not exceed three (3) stories.

303.2 The maximum permitted height of a penthouse, except as permitted in Subtitle D § 303.3 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

303.3 A non-residential building constructed pursuant to Subtitle D § 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

304 LOT OCCUPANCY

304.1 The maximum permitted lot occupancy in the R-1-A, R-1-B, and R-2 zones shall be forty percent (40%).

304.2 The maximum permitted lot occupancy in the R-3 zone shall be sixty percent (60%) for attached dwellings and forty percent (40%) for other structures.

305 FRONT SETBACK

305.1 A front setback shall be provided within the range of existing front setbacks of all residential buildings within an R-1 through R-3 zone on the same side of the street in the block where the building is proposed.

306 REAR YARD

306.1 A minimum rear yard of twenty-five feet (25 ft.) shall be provided in the R-1-A and R-1-B zones.

306.2 A minimum rear yard of twenty feet (20 ft.) shall be provided in the R-2 and R-3 zones.

307 SIDE YARD

307.1 A minimum side yard of eight feet (8 ft.) shall be provided in the R-1-A, R-1-B, and R-2 zones.

307.2 A detached single dwelling unit in the R-2 and R-3 zone shall be subject to the side yard requirements of an R-1-B zone.

307.3 No side yard shall be required for attached dwellings in the R-3 zone; however, if a side yard is provided, it shall be no less than five feet (5 ft.).

307.4 In the R-2 and R-3 zones, when a single dwelling unit, flat, or multiple dwelling unit development is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

307.5 For a building subject to a side yard requirement but which has an existing side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.).

308 PERVIOUS SURFACE

308.1 The minimum percentage of pervious surface requirement of a lot in the R-1-A or R-1-B zones shall be fifty percent (50%).

308.2 The minimum required pervious surface requirement of a lot in the R-2 zone shall be thirty percent (30%).

308.3 The minimum required pervious surface requirement of a lot in the R-3 zone shall be twenty percent (20%).

309 SPECIAL EXCEPTION

309.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D §§ 5201 and 5205.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

310 USE PERMISSIONS

310.1 Use permissions for the R-1-A and R-1-B zones are as specified for Use Group A, in Subtitle U, Chapter 2.

310.2 Use permissions for the R-2 zones are as specified for Use Group B in Subtitle U, Chapter 2.

310.3 Use permissions for the R-3 zones are as specified for Use Group C in Subtitle U, Chapter 2.

CHAPTER 4 TREE AND SLOPE PROTECTION RESIDENTIAL HOUSE ZONES – R-6 AND R-7

400 PURPOSE AND INTENT

400.1 The purposes of the Tree and Slope Protection Residential House (R-6 and R-7) zones are to:

(a) Preserve and enhance the park-like setting of designated neighborhoods adjacent to streams or parks by regulating alteration or disturbance of terrain, destruction of trees, and ground coverage of permitted buildings and other impervious surfaces;

(b) Preserve the natural topography and mature trees to the maximum extent feasible in a residential neighborhood;

(c) Prevent significant adverse impact on adjacent open space, parkland, stream beds, or other environmentally sensitive natural areas; and

(d) Limit permitted ground coverage of new and expanded buildings and other construction, so as to encourage a general compatibility between the siting of new buildings and the existing neighborhood.

400.2 The R-6 and R-7 zones shall be mapped in residential neighborhoods that are located at the edge of stream beds or public open spaces and that have a significant quantity of steep slopes, stands of mature trees, and undeveloped lots and parcels subject to potential terrain alteration and tree removal. It is not suitable for mapping in neighborhoods where nearly all lots are already developed on a rectangular grid system and the existing mature trees are either yard trees or street trees.

400.3 The R-6 zone is intended to permit detached houses on large lots and to protect quiet residential areas developed with detached dwellings.

400.4 The R-7 zone is intended to permit detached houses on moderately sized lots.

401 DEVELOPMENT STANDARDS

401.1 The development standards in Subtitle D §§ 402 through 409 modify the general development standards in Subtitle D, Chapter 2

402 DENSITY- LOT DIMENSIONS

402.1 Except as prescribed in other provisions of this title, the minimum dimensions of lots in the R-6 and R-7 zones shall be as set forth in the following table:

TABLE D § 402.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Min. Lot Width (ft.)	Min. Lot Area (sq. ft.)
R-6	75	7,500
R-7	50	5,000

403 HEIGHT

403.1 The maximum permitted building height, not including the penthouse, in the R-6 and R-7 zones shall be forty feet (40 ft.) and three (3) stories.

403.2 The maximum permitted height of a penthouse, except as permitted in Subtitle D § 403.3 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

403.3 A non-residential building constructed pursuant to Subtitle D § 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

404 LOT OCCUPANCY

404.1 The maximum permitted lot occupancy in the R-6 and R-7 zones shall be thirty percent (30%).

405 FRONT SETBACK

405.1 A front setback shall be provided within the range of existing front setbacks of all structures within the R-6 and R-7 zones, on the same side of the street in the block where the building is proposed.

406 REAR YARD

406.1 A minimum rear yard of twenty-five feet (25 ft.) shall be provided in the R-6 and R-7 zones.

406.2 In the case of a lot abutting three (3) or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

406.3 As provided in Subtitle C, Chapter 2, in the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into

the required rear yard; provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.

407 SIDE YARD

407.1 A minimum side yard of eight feet (8 ft.) shall be provided in the R-6 and R-7 zones.

407.2 For a building subject to a side yard requirement, but which has an existing side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.).

408 PERVIOUS SURFACE

408.1 The minimum percentage of pervious surface of a lot in an R-6 or R-7 zone shall be fifty percent (50%).

409 TREE PROTECTION

409.1 The tree protection regulations of Subtitle C, Chapter 4 shall apply to the R-6 and R-7 zones.

410 SPECIAL EXCEPTION

410.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D §§ 5201, 5202, and 5205.

411 USE PERMISSIONS

411.1 Use permissions for the R-6 and R-7 zones are as specified for Use Group A, in Subtitle U, Chapter 2.

CHAPTER 5 FOREST HILLS TREE AND SLOPE RESIDENTIAL HOUSE ZONES – R-8, R-9, AND R-10

500 PURPOSE AND INTENT

500.1 The purposes of the Forest Hills Tree and Slope Protection Residential House zones (R-8, R-9, and R-10) are to:

(a) Preserve and enhance the park-like setting of designated neighborhoods bounded by Connecticut Avenue and Thirty-Second Street on the west, Rock Creek Park on the east, Fort Circle National Park and Nevada Avenue, N.W. on the north, and Melvin C. Hazen Park and adjacent to streams and parks on the south, by regulating alteration or disturbance of terrain, destruction of trees, and the ground coverage of permitted buildings and other impervious surfaces. It includes Soapstone Valley Park as well as Melvin C. Hazen Park;

(b) Preserve the natural topography and mature trees to the maximum extent feasible in the Forest Hills neighborhoods;

(c) Prevent significant adverse impact on adjacent open space, parkland, stream beds, or other environmentally sensitive natural areas; and

(d) Limit permitted ground coverage of new and expanded buildings and other construction, so as to encourage a general compatibility between the siting of new buildings or construction and the existing neighborhood.

500.2 The Forest Hills Tree and Slope Protection zones have a significant quantity of steep slopes, stands of mature trees, are located at the edge of stream beds and public open spaces, and have undeveloped lots and parcels subject to potential terrain alteration and tree removal. Few lots are developed on a rectangular grid system.

500.3 The R-8 zone is intended to permit detached houses on large lots.

500.4 The R-9 zone is intended to permit detached houses on moderately sized lots.

500.5 The R-10 zone is intended to:

(a) Permit semi-detached houses on moderately sized lots, and allow for areas of detached dwellings;

(b) Retain the single dwelling unit nature of these areas; and

(c) Prohibit denser types of residential development.

501 DEVELOPMENT STANDARDS

501.1 The development standards in Subtitle D §§ 602 through 609 modify the general development standards in Subtitle D, Chapter 2.

502 DENSITY- LOT DIMENSIONS

502.1 Except as prescribed in other provisions of this title, the minimum dimensions of lots in the R-8, R-9, and R-10 zones shall be as set forth in the following table:

TABLE D § 502.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-8	75	9,500 for lots in Squares 2042, 2043, 2046, 2049, 2231, 2232, 2238, 2239, 2244 through 2248, 2250, 2258, 2272, and 2282 7,500 for all other lots
R-9	50	5,000
R-10	40 (detached) 32 (IZ detached) 30 (semi-detached) 25 (IZ semi-detached) 40 (all other structures)	4,000 (detached) 3,200 (IZ detached) 3,000 (semi-detached) 2,500 (IZ semi-detached) 4,000 (all other structures

503 HEIGHT

503.1 The maximum permitted building height, not including the penthouse, in the R-8, R-9, and R-10 zones shall be forty feet (40 ft.) and three (3) stories.

503.2 The maximum permitted height of a penthouse, except as permitted in Subtitle D § 207.6 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

503.3 A non-residential building constructed pursuant to Subtitle D § 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

504 LOT OCCUPANCY

504.1 The maximum permitted lot occupancy in the R-8, R-9, and R-10 zones shall be thirty percent (30%).

505 FRONT SETBACK

505.1 A front setback shall be provided within the range of existing front setbacks of all residential buildings within the R-8 through R-10 zones, on the same side of the street in the block where the building is proposed.

506 REAR YARD

506.1 A minimum rear yard of twenty-five feet (25 ft.) shall be provided in the R-8 and R-9 zones.

506.2 A minimum rear yard of twenty feet (20 ft.) shall be provided in the R-10 zone.

507 SIDE YARD

507.1 The minimum side yard requirement for all buildings, accessory buildings, or additions to buildings in the R-8, R-9, and R-10 zones shall be twenty-four feet (24 ft.) in the aggregate, with no single side yard having a width of less than eight feet (8 ft.).

507.2 In the R-10 zone when a single dwelling unit, flat, or multiple dwelling unit development is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

508 PERVIOUS SURFACE

508.1 In an R-8, R-9, or R-10 zone, the minimum percentage of pervious surface of a lot shall be fifty percent (50%); provided this subsection shall not:

(a) Preclude enlargement of a principal building in existence as of May 18, 2007; or

(b) Create nonconformity of a structure as regulated by this title.

509 TREE PROTECTION

509.1 The tree protection regulations of Subtitle C, Chapter 4 shall only apply to those lots in the R-8 zone in Squares 2042, 2043, 2046, 2049, 2231, 2232, 2238, 2239, 2244 through 2248, 2250, 2258, 2272, and 2282.

509.2 To the extent that any person seeks permission for building or terrain alteration on a lot with a slope steeper than twenty-five percent (25%) or with "highly erodible land" as defined at 7 C.F.R. § 12.2 (2005), a professional certification that the plans for alteration and/or construction will follow best geo-technical, structural engineering, and arboreal practices shall be supplied with the building permit application.

510 SPECIAL EXCEPTION

510.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D §§ 5201, 5202, and 5205.

511 USE PERMISSIONS

511.1 Use permissions for the R-8 and R-9 zones are as specified for Use Group A, in Subtitle U, Chapter 2.

511.2 Use permissions for the R-10 zone are as specified for Use Group B, in Subtitle U, Chapter 2.

CHAPTER 6 NAVAL OBSERVATORY/TREE AND SLOPE RESIDENTIAL HOUSE ZONE – R-11

600 PURPOSE AND INTENT

600.1 In addition to the provisions of Subtitle D § 400.1, the purposes of the Naval Observatory/Tree and Slope Protection Residential House zone (R-11) are to:

(a) Promote the public health, safety, and general welfare on land adjacent to or in close proximity to the highly sensitive and historically important Naval Observatory in keeping with the goals and policies of the Federal and District elements of the Comprehensive Plan and the adopted Master Plan for that facility;

(b) Ensure that public land within the zone shall be used in a manner consistent with the historic or ceremonial importance and special missions of the Naval Observatory;

(c) Reflect the importance of the Naval Observatory to the District of Columbia and to the Nation;

(d) Provide additional controls on private land to protect Federal interest concerns, including the critical scientific mission performed at the Naval Observatory and the security needs of the Vice President's residence; and

(e) Provide development standards to reduce or eliminate any possible harm or restrictions on the mission of the Federal establishment within the zone.

600.2 The R-11 zone is intended to permit detached houses on large lots.

601 DEVELOPMENT STANDARDS

601.1 The development standards in Subtitle D §§ 602 through 609 modify the general development standards in Subtitle D, Chapter 2.

602 DENSITY - LOT DIMENSIONS

602.1 Except as prescribed in other provisions of this title, the minimum dimensions of a lot in the R-11 zone shall be as set forth in the following table:

TABLE D § 602.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-11	75	7,500

603 HEIGHT

603.1 The maximum permitted building height, not including the penthouse, in the R-11 zone shall be forty feet (40 ft.) and three (3) stories.

603.2 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.

603.3 The maximum permitted height of a penthouse, except as permitted in Subtitle D § 207.6 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

603.4 A non-residential building constructed pursuant to Subtitle D § 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

604 LOT OCCUPANCY

604.1 The maximum permitted lot occupancy in the R-11 zone shall be thirty percent (30%).

605 FRONT SETBACK

605.1 A front setback shall be provided within the range of existing front setbacks of all residential buildings within an R-11 zone, on the same side of the street in the block where the building is proposed.

606 REAR YARD

606.1 A minimum rear yard of twenty-five feet (25 ft.) shall be provided in the R-11 zone.

607 SIDE YARD

607.1 A minimum side yard of eight feet (8 ft.) shall be provided in the R-11 zone.

607.2 For a building subject to a side yard requirement but which has an existing side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased;

and provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.).

608 PERVIOUS SURFACE

608.1 The minimum percentage of pervious surface requirement of a lot in an R-11 zone shall be fifty percent (50%).

609 TREE PROTECTION

609.1 The tree protection regulations of Subtitle C, Chapter 4 shall apply to the R-11 zone.

610 SPECIAL EXCEPTION

610.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D §§ 5201, 5202, 5203, and 5205.

611 USE PERMISSIONS

611.1 Use permissions for the R-11 zone are as specified for Use Group A, in Subtitle U, Chapter 2.

CHAPTER 7 NAVAL OBSERVATORY RESIDENTIAL HOUSE ZONES – R-12 AND R-13

700 PURPOSE AND INTENT

700.1 The purposes of the Naval Observatory Residential House zones (R-12 and R-13) are to:

(a) Promote the public health, safety, and general welfare on land adjacent to or in close proximity to the highly sensitive and historically important Naval Observatory in keeping with the goals and policies of the Federal and District elements of the Comprehensive Plan and the adopted Master Plan for that facility;

(b) Ensure that public land within the zone shall be used in a manner consistent with the historic or ceremonial importance and special missions of the Naval Observatory;

(c) Reflect the importance of the Naval Observatory to the District of Columbia and the Nation;

(d) Provide additional controls on private land to protect Federal interest concerns, including the critical scientific mission performed at the Naval Observatory and the security needs of the Vice President's residence; and

(e) Provide development standards to reduce or eliminate any possible harm or restrictions on the mission of the Federal establishment within the zone.

700.2 The R-12 zone is intended to permit detached houses on moderately-sized lots.

700.3 The R-13 zone is intended to permit single dwelling unit attached rowhouses on small lots, include areas where attached houses are mingled with detached houses and semi-detached houses, and retain the single dwelling unit nature of these areas.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

701 DEVELOPMENT STANDARDS

701.1 The development standards in Subtitle D §§ 702 through 708 modify the general development standards in Subtitle D, Chapter 2.

702 DENSITY – LOT DIMENSIONS

702.1 Except as prescribed in other provisions of this title, the minimum dimensions of lots in the R-12 and R-13 zones shall be as set forth in the following table:

TABLE D § 702.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-12	50	5,000
R-13	40 (detached) 30 (semi-detached) 20 (attached) 16 (IZ attached) 40 (all other structures)	4,000 (detached) 3,000 (semi-detached) 2,000 (attached) 1,600 (IZ attached) 4,000 (all other structures)

703 HEIGHT

703.1 The maximum permitted building height, not including the penthouse, in the R-12 and R-13 zones shall be forty feet (40 ft.) and three (3) stories.

703.2 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.

703.3 The maximum permitted height of a penthouse, except as permitted in Subtitle D § 207.6 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

703.4 A non-residential building constructed pursuant to Subtitle D § 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

704 LOT OCCUPANCY

704.1 The maximum permitted lot occupancy in the R-12 zone shall be forty percent (40%).

704.2 The maximum permitted lot occupancy in the R-13 zone shall be sixty percent (60%) for attached dwellings and forty percent (40%) for all other structures.

705 FRONT SETBACK

705.1 A front setback shall be provided within the range of existing front setback of all residential buildings within an R-12 or R-13 zone, on the same side of the street in the block where the building is proposed.

706 REAR YARD

706.1 A minimum rear yard of twenty-five feet (25 ft.) shall be provided in the R-12 zone.

706.2 A minimum rear yard of twenty feet (20 ft.) shall be provided in the R-13 zone.

707 SIDE YARD

707.1 A minimum side yard of eight feet (8 ft.) shall be provided in the R-12 zone.

707.2 No side yard shall be required in the R-13 zone; however, if a side yard is provided, it shall be no less than five feet (5 ft.).

707.3 For a building subject to a side yard requirement, but which has an existing side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.).

707.4 In the R-13 zone, when a single dwelling unit, flat, or multiple dwelling unit development is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

708 PERVIOUS SURFACE

708.1 The minimum percentage of pervious surface of a lot in the R-12 zone shall be fifty percent (50%).

708.2 The minimum percentage of pervious surface of a lot in the R-13 zone shall be twenty percent (20%).

709 SPECIAL EXCEPTION

709.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D §§ 5201, 5203, and 5205.

710 USE PERMISSIONS

710.1 Use permissions for the R-12 zone are as specified for Use Group A, in Subtitle U, Chapter 2.

710.2 Use permissions for the R-13 zone are as specified for Use Group C, in Subtitle U, Chapter 2.

CHAPTER 8 WESLEY HEIGHTS RESIDENTIAL HOUSE ZONES – R-14 AND R-15

800 PURPOSE AND INTENT

800.1 The purposes of the Wesley Heights Residential House zones (R-14 and R-15) are to:

(a) Preserve and enhance the low-density character of Wesley Heights by regulating construction and alteration of residential and other buildings in the area;

(b) Preserve in general the current density of the neighborhood;

(c) Allow reasonable opportunities for owners to expand their dwellings; and

(d) Preserve existing trees, access to air and light, and the harmonious design and attractive appearance of the neighborhood.

800.2 The R-14 zone is intended to permit detached houses on large lots.

800.3 The R-15 zone is intended to permit detached houses on moderately sized lots.

801 DEVELOPMENT STANDARDS

801.1 The development standards in Subtitle D §§ 802 through 809 modify the general development standards in Subtitle D, Chapter 2.

802 DENSITY – LOT DIMENSIONS AND GROSS FLOOR AREA

802.1 Except as prescribed in other provisions of this title, the minimum dimensions of lots in the R-14 and R-15 zones shall be as set forth in the following table:

TABLE D § 802.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-14	75	7,500
R-15	50	5,000

802.2 The gross floor area (GFA) of all buildings and structures on the lot shall not exceed the sum of two thousand square feet (2,000 sq. ft.) plus forty percent (40%) of the area of the lot; provided, that the following modifications of GFA shall apply in the R-14 and R-15 zones:

(a) The first two hundred square feet (200 sq. ft.) of an open porch, or total open porch space if there is more than one (1) open porch, and the first six hundred square feet (600 sq. ft.) of a garage shall not count in GFA; and

(b) Basement or cellar floor area shall count in GFA if a finished floor is provided, if the floor to ceiling height is in excess of six feet, six inches (6 ft., 6 in.), and shall count only up to a floor area equal to five (5) times the total fenestration area for the cellar or basement floor.

803 HEIGHT

803.1 The maximum permitted building height, not including the penthouse, in the R-14 and R-15 zones shall be forty feet (40 ft.) and three (3) stories.

803.2 The maximum permitted height of a penthouse, except as permitted in Subtitle D § 207.6 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

803.3 A non-residential building constructed pursuant to Subtitle D § 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 29, 2016).

804 LOT OCCUPANCY

804.1 The maximum permitted lot occupancy for lots in the R-14 and R-15 that are less than five thousand square feet (5,000 sq. ft.) shall be forty percent (40%).

804.2 The maximum permitted lot occupancy for lots between five thousand square feet (5,000 sq. ft.) and six thousand six hundred and sixty-seven square feet (6,667 sq. ft.) shall be not less than two thousand square feet (2,000 sq. ft.).

804.3 The maximum lot occupancy for lots over six thousand six hundred and sixty-seven square feet (6,667 sq. ft.) shall be thirty percent (30%).

805 FRONT SETBACK

805.1 All residential buildings shall have a front setback equal to or greater than the average setback of all structures on the same side of the street in the block where the building in question is located. The required setbacks are depicted in the map entitled, "Required Front Yard Setbacks," which is a part of this zone and located in the Office of Zoning and in the Office of the Zoning Administrator at the Department of Consumer and Regulatory Affairs.

806 REAR YARD

806.1 A minimum rear yard of twenty-five feet (25 ft.) shall be provided in the R-14 and R-15 zones.

807 SIDE YARD

807.1 A minimum side yard of eight feet (8 ft.) shall be provided in the R-14 and R-15 zones.

807.2 For a building subject to a side yard requirement but which has an existing side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.).

808 PERVIOUS SURFACE

808.1 The minimum percentage of pervious surface of lots in the R-14 and R-15 zones shall be fifty percent (50%).

809 SPECIAL EXCEPTION

809.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D §§ 5201 and 5205.

810 USE PERMISSIONS

810.1 Use permissions for the R-14 and R-15 zones are as specified for Use Group A, in Subtitle U, Chapter 2.

CHAPTER 9 SIXTEENTH STREET HEIGHTS RESIDENTIAL HOUSE ZONE – R-16

900 PURPOSE AND INTENT

900.1 The purposes of the Sixteenth Street Heights Residential House zone (R-16) are to:

(a) Promote the conservation, enhancement, and stability of the low-density, single dwelling unit neighborhood for housing and neighborhood-related uses;

(b) Control the expansion of nonresidential uses, and/or further conversion of residential housing to nonresidential uses in order to maintain the housing supply and minimize the external negative impacts of new nonresidential uses that are permitted in the R-16 zone in order to preserve neighborhood quality; and

(c) Allow neighborhoods to continue to provide a range of health and social service facilities as well as private institutions that provide cultural and religious enrichment and economic vitality, but within the framework of improved public review and control over the external effects of nonresidential uses. The objective is to make more compatible the Comprehensive Plan's goals and policies for maintaining the quality and stability of residential neighborhoods with other policies related to the reasonable provision of human services throughout the District of Columbia.

900.2 The R-16 zone is intended to:

(a) Respond to concerns that over a period of years approximately one (1) in every ten (10) houses in the R-16 zone north of Colorado Avenue, N.W. has been converted to a nonresidential use, a much higher ratio than has been identified for any other similarly zoned neighborhood in the District of Columbia; and south of Colorado Avenue N.W., address concerns that more than twenty percent (20%) of the residentially zoned land is used for nonresidential purposes;

(b) Recognize that the neighborhood accommodates a significant number and range of human service facilities and private institutions to an extent that new and significantly expanded nonresidential use facilities should be governed by improved public review to ameliorate adverse impacts on immediate and nearby neighbors and to preserve a predominantly single dwelling unit residential character;

(c) Respond to the District of Columbia Comprehensive Plan's identification of the number of nonresidential uses in the neighborhood as a problem; and

(d) Address the impacts of the number of nonresidential uses and the conversion of houses to these uses in the neighborhood as reflected in the Comprehensive Plan.

901 DEVELOPMENT STANDARDS

901.1 The development standards in Subtitle D §§ 902 through 908 modify the general development standards in Subtitle D, Chapter 2.

902 DENSITY- LOT DIMENSIONS

902.1 Except as prescribed in other provisions of this title, the minimum dimensions of a lot in the R-16 zone shall be as set forth in the following table:

TABLE D § 902.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-16	50	5,000

903 HEIGHT

903.1 The maximum permitted building height, not including the penthouse, in the R-16 zone shall be forty feet (40 ft.) and three (3) stories.

903.2 The maximum permitted height of a penthouse, except as permitted in Subtitle D § 207.6 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

903.3 A non-residential building constructed pursuant to Subtitle D § 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 29, 2016).

904 LOT OCCUPANCY

904.1 The maximum permitted lot occupancy in the R-16 zone shall be forty percent (40%).

905 FRONT SETBACK

905.1 A front setback shall be provided within the range of existing front setbacks of all residential buildings within an R-16 zone, on the same side of the street in the block where the building is proposed.

906 REAR YARD

906.1 A minimum rear yard of twenty-five feet (25 ft.) shall be provided in the R-16 zone.

907 SIDE YARD

907.1 A minimum side yard of eight feet (8 ft.) shall be provided in the R-16 zone.

907.2 For a building subject to a side yard requirement, but which has an existing side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.).

908 PERVIOUS SURFACE

908.1 The minimum percentage of pervious surface requirement of a lot in an R-16 zone shall be fifty percent (50%).

909 SPECIAL EXCEPTION

909.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D §§ 5201 and 5205, except that a proposed expansion of an existing non-residential use in excess of ten percent (10%) of gross floor area, shall be subject to the conditions of Subtitle U § 205.2.

910 USE PERMISSIONS

910.1 Use permissions for the R-16 zone are as specified for Use Group D in Subtitle U, Chapter 2.

910.2 An expansion of an existing non-residential use shall not exceed ten percent (10%) of its gross floor area of the building the use occupies subject to the conditions of Subtitle U § 204. A proposed expansion of an existing non-residential use in excess of ten percent (10%) of its gross floor area, shall be subject to the conditions of Subtitle U § 205.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 10 FOGGY BOTTOM RESIDENTIAL HOUSE ZONES – R-17

1000 PURPOSE AND INTENT

1000.1 The purposes of the Foggy Bottom Residential House zone (R-17) are to:

(a) Enhance the residential character of the area by maintaining existing low-scale residential uses, human scale streetscape, and historic character;

(b) Enhance the human-scale streetscape by maintaining the public space in front of the buildings as landscaped green spaces and limiting future curb cuts;

(c) Require a scale of development consistent with the Comprehensive Plan; and the characteristics of the low scale residential townhouse neighborhood that formed the basis on which the area was designated a historic district;

(d) Protect the integrity of the historic district, its small scale, and open spaces; require compatibility of any development with the purposes of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Official Code §§ 6-1101 to 6-1115 (2012 Repl.), formerly codified at D.C. Official Code §§ 5-1001 to 5-1015 (1994 Repl. & 1999 Supp.)), and preclude demolitions or partial demolitions that would lead to an increase in height and floor area ratio inappropriate to the area;

(e) Preserve areas planned as open backyards and alleyways that provide the only access to historic alley dwellings, and to protect the light, air, and privacy that they provide; and

(f) Encourage greater use of public transportation through use of the nearby Metrorail Station, so as to protect the narrow residential streets and alleys from the deleterious effects of disruptive excessive traffic.

1000.2 The R-17 is intended to permit single dwelling unit attached rowhouses on small lots.

1001 DEVELOPMENT STANDARDS

1001.1 The development standards in Subtitle D §§ 1002 through 1008 modify the general development standards in Subtitle D, Chapter 2.

1002 DENSITY- LOT DIMENSIONS

1002.1 Except as prescribed in other provisions of this title, the minimum dimensions of a lot in the R-17 zone shall be as set forth in the following table:

TABLE D § 1002.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.) for building type;	Minimum Lot Area (sq. ft.)
R-17	40 (detached) 30 (semi-detached) 20 (attached) 16 (IZ attached) 40 (all other structures)	4,000 (detached) 3,000 (semi-detached) 2,000 (attached) 1,600 (IZ attached) 4,000 (all other structures)

1003 HEIGHT

1003.1 The maximum permitted building height, not including the penthouse, in the R-17 zone shall be forty feet (40 ft.) and three (3) stories.

1003.2 The maximum permitted height of a penthouse, except as permitted in Subtitle D § 207.6 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

1003.3 A non-residential building constructed pursuant to Subtitle D § 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

1004 LOT OCCUPANCY

1004.1 The maximum permitted lot occupancy for attached dwellings in the R-17 zone shall be sixty percent (60%). The maximum permitted lot occupancy for all other structures in the R-17 zone shall be forty percent (40%).

1005 FRONT SETBACK

1005.1 A front setback shall be provided within the range of existing front setbacks of all residential buildings within an R-17 zone, on the same side of the street in the block where the building is proposed.

1006 REAR YARD

1006.1 A minimum rear yard of twenty feet (20 ft.) shall be provided in the R-17 zone.

1007 SIDE YARD

1007.1 No side yard shall be required in the R-17 zone; however, if a side yard is provided, it shall be no less than five feet (5 ft.).

1007.2 In the R-17 zone, when a single dwelling unit, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

1007.3 For a building with a side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.).

1008 PERVIOUS SURFACE

1008.1 The minimum percentage of pervious surface requirement of a lot in an R-17 zone shall be twenty percent (20%).

1009 MISCELLANEOUS

1009.1 Buildings constructed on or before April 17, 1992, and existing legitimate uses within the buildings shall be deemed conforming, except that no addition, replacement, or expansion of the building, or change in use (except to a more conforming residential use other than a dormitory) shall be permitted unless in conformance with the requirements of the R-17 zone.

1009.2 If any building is destroyed by fire, collapse, explosion, or act of God, it may be reconstructed or restored to its previous condition or to a more conforming residential condition other than a dormitory. Excluded from this provision are uses that are nonconforming prior to April 17, 1992, and operating without a special exception issued by the Board of Zoning Adjustment.

1010 SPECIAL EXCEPTION

1010.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D §§ 5201 and 5205.

1011 USE PERMISSIONS

1011.1 Use permissions for the R-17 zones are as specified for Use Group C in Subtitle U, Chapter 2.

CHAPTER 11 [RESERVED]

CHAPTER 12 GEORGETOWN RESIDENTIAL HOUSE ZONES – R-19 AND R-20

1200 PURPOSE AND INTENT

1200.1 The purposes of the Georgetown Residential House zones (R-19 and R-20) are to:

(a) Protect the Georgetown National Historic Landmark District and its historic character, buildings and open space in a manner consistent with the goals and mandates of the Historic Landmark and Historic District Protection Act of 1978, and the Old Georgetown Act, approved September 22, 1950 (64 Stat. 903; D.C. Official Code §§ 6-1201-1206);

(b) Protect the integrity of "contributing buildings," as that term is defined by the Historic Landmark and Historic District Protection Act of 1978;

(c) Recognize the compatibility of any development with the purposes of the Old Georgetown Act and the Historic Landmark and Historic District Protection Act of 1978;

(d) Limit permitted ground coverage of new and expanded buildings and other construction to encourage a general compatibility between the siting of new or expanded buildings and the existing neighborhood; and

(e) Retain the quiet residential character of these areas and control compatible nonresidential uses.

1200.2 The R-19 zone is intended to protect quiet residential areas developed with detached dwellings and to permit detached houses on moderately sized lots.

1200.3 The R-20 zone is intended to retain and reinforce the unique mix of housing types including detached, semi-detached and attached dwellings and permit attached row houses on small lots, and includes areas where attached houses are mingled with detached houses and semi-detached houses.

1201 DEVELOPMENT STANDARDS

1201.1 The development standards in Subtitle D §§ 1202 through 1209 modify the general development standards in Subtitle D, Chapter 2.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

1202 DENSITY- LOT DIMENSIONS

1202.1 Except as prescribed in other provisions of this title, the minimum dimensions of lots in the R-19 and R-20 zones shall be as set forth in the following table:

TABLE D § 1202.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.) for building type;	Minimum Lot Area (sq. ft.)
R-19	50	5,000
R-20	40 (detached) 30 (semi-detached) 20 (attached) 16 (IZ attached) 40 (all other structures)	4,000 (detached) 3,000 (semi-detached) 2,000 (attached) 1,600 (IZ attached) 4,000 (all other structures)

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

1203 HEIGHT

1203.1 The maximum permitted building height, not including the penthouse pursuant to Subtitle D § 1102.5, in the R-19 and R-20 zones shall be thirty-five feet (35 ft.) and three (3) stories.

1203.2 In R-19 and R-20 zones, a building may have a maximum height of no more than forty feet (40 ft.) only if a property adjacent on either side has a building height of forty feet (40 ft.) or greater.

1203.3 The maximum height of a building in the R-19 and R-20 zones shall be measured to the highest point of the roof or a parapet which is not a required firewall.

1203.4 In R-19 and R-20 zones, an addition of two (2) or more stories to a principal building which has an existing second story side yard shall not exceed the vertical plane of that existing side yard for the length of the second story addition.

1203.5 In R-19 and R-20 zones, any parapet, pergola, railing, or similar roof structure, or penthouse shall not exceed the permitted building height by more than four feet (4 ft.).

1203.6 A non-residential building constructed pursuant to Subtitle D § 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

1204 LOT OCCUPANCY

1204.1 The maximum permitted lot occupancy in the R-19 zone shall be forty percent (40%).

1204.2 The maximum permitted lot occupancy in the R-20 zone shall be as follows:

(a) Sixty percent (60%) for attached dwellings;

(b) Forty percent (40%) for semi-detached dwellings; and

(c) Forty percent (40%) for detached structures.

1205 FRONT SETBACK

1205.1 A front setback shall be provided that is within the range of existing front setbacks of all residential buildings within an R-19 zone, on the same side of the street in the block where the building is proposed.

1205.2 A front setback consistent with at least one (1) of the immediately adjacent properties on either side shall be provided in the R-20 zone.

1206 REAR YARD

1206.1 A minimum rear yard of twenty-five feet (25 ft.) shall be provided in the R-19 zone.

1206.2 A minimum rear yard of twenty feet (20 ft.) shall be provided in the R-20 zone.

1207 SIDE YARD

1207.1 A minimum side yard of eight feet (8 ft.) shall be provided in the R-19 zone.

1207.2 No side yard shall be required for an attached building in the R-20 zone; however, if a side yard is provided, it shall be at least five feet (5 ft.).

1207.3 A minimum side yard of five feet (5 ft.) shall be provided for all buildings other than attached buildings in the R-20 zone.

1207.4 In the R-19 and R-20 zones, a building with a side yard less than required may be extended or an addition may be made to the building, provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.) in the R-19 zone and a minimum of three feet (3 ft.) in the R-20 zone.

1208 PERVIOUS SURFACE

1208.1 The minimum percentage of pervious surface requirement of a lot in the R-19 zone shall be fifty percent (50%).

1208.2 The minimum percentage of pervious surface requirement of a lot in the R-20 zone shall be twenty percent (20%).

1209 ACCESSORY BUILDINGS

1209.1 Accessory buildings in the R-19 and R-20 zones shall be subject to the development regulations of this section.

1209.2 The accessory building shall be located facing an alley, or private alley to which the owner has access by an easement recorded with the Recorder of Deeds, and shall be set back a maximum of five feet (5 ft.) from the rear property line or a line perpendicular to the façade of the principal building.

1209.3 In the R-19 zone, an accessory building within five feet (5 ft.) of a public or private vehicular alley may have a maximum height of twenty feet (20 ft.), a maximum building area of four hundred and fifty square feet (450 sq. ft.) and a maximum number of two (2) stories.

1209.4 In the R-20 zone, an accessory building within five feet (5 ft.) of a public or private vehicular alley may have a maximum height of fifteen feet (15 ft.), a maximum building area of four hundred and fifty square feet (450 sq. ft.) and a maximum number of one (1) story.

1209.5 In the R-19 and R-20 zones, an accessory building on a property that is not adjacent to a public or private vehicular alley or that is more than five feet (5 ft.) from a public or private vehicular alley may have a maximum height of ten feet (10 ft.) and a maximum building area of one hundred square feet (100 sq. ft.).

1209.6 Roof decks are not permitted.

1210 SPECIAL EXCEPTION

1210.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 and subject to the provisions and limitations of Subtitle D §§ 5201 and 5205.

1211 USE PERMISSIONS

1211.1 Use permissions for the R-19 zones are as specified for Use Group A, in Subtitle U, Chapter 2.

1211.2 Use permissions for the R-20 zones are as specified for Use Group C, in Subtitle U, Chapter 2.

CHAPTER 13 CHAIN BRIDGE ROAD/UNIVERSITY TERRACE RESIDENTIAL HOUSE ZONE – R-21

1300 PURPOSE AND INTENT

1300.1 The purposes of the Chain Bridge Road/University Terrace Residential House zone (R-21) are to:

(a) Provide for areas predominantly developed with detached houses on large lots;

(b) Preserve and enhance the park-like setting of the area by regulating alteration or disturbance of terrain, destruction of trees, and ground coverage of permitted buildings and other impervious surfaces, and by providing for widely spaced residences;

(c) Preserve the natural topography and mature trees to the maximum extent feasible in a residential neighborhood;

(d) Prevent significant adverse impact on adjacent open space, parkland, stream beds, or other environmentally sensitive natural areas;

(e) Limit permitted ground coverage of new and expanded buildings and other construction, so as to encourage a general compatibility between the siting of new buildings or construction and the existing neighborhood; and

(f) Limit the minimum size of lots so as to prevent significant adverse impact on existing infrastructure, especially on traffic and pedestrian safety, and to achieve the other purposes listed in this subsection.

1300.2 The R-21 zone applies to the area bounded on the south by MacArthur Boulevard, on the east by Battery Kemble Park/Chain Bridge Road, on the north by Loughboro Road/Nebraska Avenue, and on the west by University Terrace.

1300.3 The R-21 zone is mapped on a residential neighborhood, located at the edge of stream beds and public open spaces that have steep slopes, substantial stands of mature trees, and undeveloped lots and parcels subject to potential terrain alteration and tree removal.

1301 DEVELOPMENT STANDARDS

1301.1 The development standards in Subtitle D §§ 1302 through 1309 modify the general development standards in Subtitle D, Chapter 2.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

1302 DENSITY- LOT DIMENSIONS

1302.1 Except as prescribed in other provisions of this title, the minimum dimensions of a lot in the R-21 zone shall be as set forth in the following table:

TABLE D § 1302.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS

Zone	Minimum Lot Width (ft.)	Minimum Lot Area (sq. ft.)
R-21	75	9,500 for lots created for dwellings after July 20, 1999; 7,500 for all other lots

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

1303 HEIGHT

1303.1 The maximum permitted building height, not including the penthouse, in the R-21 zone shall be forty feet (40 ft.) and three (3) stories.

1303.2 The maximum permitted height of a penthouse, except as permitted in Subtitle D § 207.6 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

1303.3 A non-residential building constructed pursuant to Subtitle D § 207.6 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

1304 LOT OCCUPANCY

1304.1 The maximum permitted lot occupancy for lots in the R-21 zone that are less than six thousand five hundred square feet (6,500 sq. ft.) shall be forty percent (40%).

1304.2 The maximum permitted lot occupancy for lots in the R-21 zone that are between six thousand five hundred square feet (6,500 sq. ft.) and eight thousand nine hundred and ninety-nine square feet (8,999 sq. ft.) shall be thirty-five percent (35%), but not less than two thousand six hundred square feet (2,600 sq. ft.).

1304.3 The maximum permitted lot occupancy for lots in the R-21 zone that are over nine thousand square feet (9,000 sq. ft.) shall be thirty percent (30%), but not less than three thousand one hundred and fifty square feet (3,150 sq. ft.).

1305 FRONT SETBACK

1305.1 A front setback shall be provided within the range of existing front setbacks of all residential buildings within an R-21 zone, on the same side of the street in the block where the building is proposed.

1306 REAR YARD

1306.1 A minimum rear yard of twenty-five feet (25 ft.) shall be provided in the R-21 zone.

1307 SIDE YARD

1307.1 A minimum side yard of eight feet (8 ft.) shall be provided in the R-21 zone.

1307.2 For a building with a side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; provided, that the width of the existing side yard k shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.).

1308 PERVIOUS SURFACE

1308.1 In the R-21 zone, the minimum percentage of pervious surface of a lot shall be fifty percent (50%), provided that this subsection shall not:

(a) Preclude enlargement of a principal building in existence as of July 30, 1999; or

(b) Create nonconformity of a structure as regulated by Subtitle C, Chapter 2.

1309 TREE PROTECTION

1309.1 The tree protection regulations of Subtitle C, Chapter 4 shall apply to the R-21 zone.

1310 SPECIAL EXCEPTION

1310.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D §§ 5201, 5202, and 5205

1311 USE PERMISSIONS

1311.1 Use permissions for the R-21 zones are as specified for Use Group A, in Subtitle U, Chapter 2.

CHAPTER 14 THROUGH CHAPTER 49 [RESERVED]

CHAPTER 50 ACCESSORY BUILDING REGULATIONS FOR R ZONES

5000 GENERAL PROVISIONS

5000.1 Accessory buildings may be permitted within an R zone subject to the conditions of this section.

5000.2 An accessory building shall be subordinate to and located on the same lot as the principal building, and shall be used for purposes that are incidental to the use of the principal building.

5000.3 An accessory building shall be secondary in size compared to the principal building, and shall comply with all required yards for accessory buildings based on the zone in which they are located.

5000.4 Notwithstanding Subtitle D § 5000.3, an accessory building shall not be located in the front yard of a lot in an R zone developed with a residential building

5000.5 A private garage permitted in an R zone as a principal use on a lot other than an alley lot, shall open directly onto an alley, and shall not be located within fifty feet (50 ft.) of the front building line or within twelve feet (12 ft.) of the center line of the alley upon which it opens.

5001 DEVELOPMENT STANDARDS

5001.1 The bulk of accessory buildings in the R zones shall be controlled through the development standards in Subtitle D §§ 5002 through 5006.

5002 HEIGHT

5002.1 The maximum height of an accessory building in an R zone shall be two (2) stories and twenty feet (20 ft.), including the penthouse. The height of an accessory building permitted by this section shall be measured from the finished grade at the middle of the side of the accessory building that faces the main building to the highest point of the roof of the building

5003 LOT OCCUPANCY

5003.1 An accessory building in an R zone as a principal use on a lot other than an alley lot shall be exempt from the requirements for minimum lot dimensions, but shall be subject to the limitation on percentage of lot occupancy of the zone in which the lot is located.

5004 REAR YARD

5004.1 An accessory building in an R zone may be located within a rear yard provided, where abutting an alley, it shall be set back at least twelve feet (12 ft.) from the center line of the alley.

5005 SIDE YARD

5005.1 An accessory building in an R zone may be located within a side yard or beside the main building; provided, if the accessory building is located beside the main building, it shall be removed from the side lot line a distance equal to the required side yard and from all building lines a distance of not less than ten feet (10 ft.).

5006 MAXIMUM BUILDING AREA

5006.1 The maximum building area for an accessory building in an R zone shall be the greater of thirty (30%) of the required rear yard area or four hundred and fifty square feet (450 sq. ft.).

5007 SPECIAL EXCEPTION

5007.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 and subject to the provisions and limitation of Subtitle D § 5201.

CHAPTER 51 ALLEY LOT REGULATIONS FOR R ZONES

5100 GENERAL PROVISIONS

5100.1 All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia as a record lot.

5100.2 New alley lots may be created as provided in the subdivision regulations in Subtitle C § 303.3.

5101 DEVELOPMENT STANDARDS

5101.1 The development standards in Subtitle D §§ 5102 through 5107 shall apply to buildings on alley lots in R zones.

5102 HEIGHT

5102.1 The maximum height and stories of buildings on alley lots in R zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.

5103 LOT OCCUPANCY

5103.1 A building or structure shall not occupy an alley lot in excess of the maximum lot occupancy as set forth in the following table:

TABLE D § 5103.1: MAXIMUM LOT OCCUPANCY FOR AN ALLEY LOT

Alley Lot Size	Maximum Lot Occupancy
Less than 1,800 sq. ft.	N/A
Between 1,800 sq. ft. and 2,000 sq. ft.	90%
Larger than 2,000 sq. ft.	80%

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

5104 REAR YARD

5104.1 A minimum rear yard of five feet (5 ft.) shall be provided along any lot line of all abutting non-alley lots.

5105 SIDE YARD

5105.1 A minimum side yard of five feet (5 ft.) shall be provided along any lot line of all abutting non-alley lots.

5106 ALLEY CENTERLINE SETBACK

5106.1 A required twelve foot (12 ft.) setback from the centerline of all alleys to which the alley lot abuts shall be provided.

5107 PERVIOUS SURFACE

5107.1 The minimum percentage of pervious surface requirement of an alley lot in an R zone shall be ten percent (10%).

5108 SPECIAL EXCEPTION

5108.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D § 5204.

CHAPTER 52 RELIEF FROM REQUIRED DEVELOPMENT STANDARDS

5200 GENERAL PROVISIONS

5200.1 The following provisions provide for special exception relief to the specified development standards and regulations subject to the provisions of each section and the general special exception criteria at Subtitle X, Chapter 9.

5200.2 Requested relief that does not comply with specific conditions or limitations of a special exception shall be processed as a variance.

5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE

5201.1 The Board of Zoning Adjustment may approve as a special exception in the R zones relief from the following development standards of this subtitle, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

(a) Lot occupancy;

(b) Yards;

(c) Courts;

(d) Minimum lot dimensions;

(e) Pervious surface; and

(f) The limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.

5201.2 Special exception relief under this section is applicable only to the following:

(a) An addition to a building with only one (1) principal dwelling unit; or

(b) A new or enlarged accessory structure that is accessory to such a building.

5201.3 An applicant for special exception under this section shall demonstrate that the proposed addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(a) The light and air available to neighboring properties shall not be unduly affected;

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

(c) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage;

(d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways; and

(e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot as specified in the following table:

TABLE D § 5201.3: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy
R-3 R-13 R-16	70%
R-20 – attached dwellings only	70%
R-20 – detached and semi-detached dwellings All Other R zones	50%

5201.4 The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

5201.5 This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.

5201.6 This section shall not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.

5202 SPECIAL EXCEPTION CRITERIA FOR TREE PROTECTION

5202.1 The Board of Zoning Adjustment may approve as a special exception, relief from the tree and slope protection requirements of this subtitle pursuant to Subtitle X and subject to the following requirements:

(a) Tree removal, grading, and topographical change shall be limited to the maximum extent possible, consistent with construction of a building permitted by the standards of this section;

(b) The applicant shall demonstrate that there are specific physical characteristics of the lot that justify the exception;

(c) The excepted building and overall site plan of the lot shall be generally consistent with the purposes of the R-21 and R-6 through R-11 zones and will not adversely affect neighboring property; and

(d) The Board of Zoning Adjustment may impose requirements as to design, appearance, tree protection practices during construction, buffering, and other requirements as it deems necessary to achieve the purposes of this section and may vary side and rear yard requirements in order to achieve the purposes of this section.

5202.2 Before taking action on an application, the Board of Zoning Adjustment shall submit the application to the following agencies for review and written reports:

(a) Office of Planning;

(b) Department of Transportation, Tree Management Administration;

(c) Department of Parks and Recreation;

(d) Department of Energy and Environment, Watershed Protection Division, Technical Services Branch; and

(e) National Park Service, U.S. Department of the Interior.

5202.3 An applicant for a special exception shall submit at least the following materials:

(a) A site plan for development, including computation and illustration of total lot occupancy and impervious surface ratio, and regulated trees proposed to be removed; and

(b) A plan and statement indicating how trees to be preserved on the lot will be protected during the construction period, including reference to proposed procedures to guard against long-term damage by such factors as soil compaction.

5203 SPECIAL EXCEPTION CRITERIA FOR R-11, R-12, AND R-13 (NAVAL OBSERVATORY) ZONES

5203.1 In consideration of a special exception in the R-11, R-12, or R-13 zones, in addition to any other criteria of this title, the following conditions shall apply:

(a) The Board of Zoning Adjustment shall consider whether the proposed development is compatible with the:

(1) Present and proposed development within and adjacent to the subject zone;

(2) Goals, objectives, and policies pertaining to federal facilities, as found in the Comprehensive Plan and the Master Plans for the federal facilities within the subject zone; and

(3) Role, mission, and functions of the federal facilities within the subject zone, considering the effect that the proposed development would have on such facilities;

(b) Before taking action on an application, the Board of Zoning Adjustment shall submit the application to the following agencies for review and written reports:

(1) Office of Planning;

(2) District Department of Transportation;

(3) Department of Housing and Community Development;

(4) The Historic Preservation Office if a historic district or historic landmark is involved; and

(5) The National Capital Planning Commission; and

(c) The Board of Zoning Adjustment may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impact identified in the consideration of the application.

5204 SPECIAL EXCEPTION CRITERIA ALLEY LOTS

5204.1 The Board of Zoning Adjustment may approve as a special exception a reduction in the minimum yard requirements of an alley lot in an R zone pursuant to Subtitle X, Chapter 9.

5205 SPECIAL EXCEPTION FROM PENTHOUSE PROVISIONS

5205.1 The Board of Zoning Adjustment may grant special exception relief from the penthouse requirements of this subtitle pursuant to the provisions of Subtitle C §§ 1504.1 and 1504.2.

TITLE 11 – ZONING

SUBTITLE E RESIDENTIAL FLATS (RF) ZONES

TITLE 11 – ZONING E-1

SUBTITLE E RESIDENTIAL FLATS (RF) ZONES E-1

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CHAPTER 1 INTRODUCTION TO RESIDENTIAL FLAT (RF) ZONES

100 GENERAL PROVISIONS

100.1 The Residential Flat (RF) zones are residential zones, which provide for areas developed primarily with row dwellings, but within which there have been limited conversions of dwellings or other buildings into more than two (2) dwelling units.

100.2 The RF zones are designed to be mapped in areas identified as low-, moderate- or medium-density residential areas suitable for residential life and supporting uses.

100.3 In addition to the purpose statements of individual chapters, the provisions of the RF zones are intended to:

(a) Recognize and reinforce the importance of neighborhood character, walkable neighborhoods, housing affordability, aging in place, preservation of housing stock, improvements to the overall environment, and low- and moderate-density housing to the overall housing mix and health of the city;

(b) Allow for limited compatible non-residential uses;

(c) Allow for the matter-of-right development of existing lots of record;

(d) Establish minimum lot area and dimensions for the subdivision and creation of new lots of record in RF zones;

(e) Allow for the limited conversion of rowhouse and other structures for flats; and

(f) Prohibit the conversion of flats and row houses for apartment buildings as anticipated in the RA zone.

100.4 The RF zones shall be distinguished by a maximum number of principal dwelling units per lot of either two (2), three (3), or four (4) units.

100.5 For those zones with geographic identification, the boundaries are cited in Subtitle W and identified on the official Zoning Map. When there is a conflict between the official Zoning Map and the boundaries described in Subtitle W, the Office of Zoning shall determine the correct boundaries through a zoning certification.

101 DEVELOPMENT STANDARDS

101.1 The bulk of structures in the RF zones shall be controlled through the combined general development standards of this subtitle, the zone-specific development standards of this subtitle, and the requirements and standards of Subtitle C.

101.2 The development standards are intended to:

(a) Control the bulk or volume of structures, including height, floor area ratio, and lot occupancy;

(b) Control the location of building bulk in relation to adjacent lots and streets, by regulating rear setbacks, side setbacks, and the relationship of buildings to street lot lines;

(c) Regulate the mixture of uses; and

(d) Promote the environmental performance of development.

101.3 Development standards may be varied or waived by the Board of Zoning Adjustment as a variance or, when permitted in this title, as a special exception. Additional zone-specific special exception criterion, if applicable, shall be considered by the Board and are referenced in this subtitle.

101.4 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this Subtitle can be found in Subtitle C.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

102 USE PERMISSIONS

102.1 Use permissions for the RF zones are as specified in Subtitle U, Chapter 3.

103 PARKING

103.1 Parking requirements for the RF zones are as specified in Subtitle C.

104 PUBLIC EDUCATION, RECREATION, OR LIBRARY BUILDINGS AND STRUCTURES

104.1 Public education buildings and structures, public recreation and community centers, or public libraries in the RF zones shall be permitted subject to the conditions of Subtitle C, Chapter 16.

104.2 Development standards not otherwise addressed by Subtitle C, Chapter 16 shall be those development standards for the zone in which the building or structure is proposed.

105 INCLUSIONARY ZONING

105.1 Inclusionary Zoning (IZ) requirements for the RF zones are as specified in Subtitle C, Chapter 10.

105.2 Development standards for projects subject to the requirements of Inclusionary Zoning are indicated by "(IZ)."

106 ANTENNAS

106.1 Antennas shall be subject to the regulations of Subtitle C, Chapter 13.

CHAPTER 2 GENERAL DEVELOPMENT STANDARDS (RF)

200 GENERAL PROVISIONS

200.1 The provisions of this chapter apply to all RF zones except as may be modified or otherwise provided for in a specific zone.

200.2 When modified or otherwise provided for in the development standards for a specific zone, the modification or zone specific standard shall apply.

201 DENSITY – LOT DIMENSIONS

201.1 The minimum lot width and minimum lot area requirements for the creation of a record lot in an RF zone shall be as set forth in the following table:

TABLE E § 201.1: MINIMUM LOT AREA REQUIREMENTS

	Lot Width Minimum	Lot Area Minimum
Row Dwelling or Flat	18 ft.	1,800 sq. ft.
Row Dwelling or Flat Inclusionary Zoning	16 ft. as a special exception (IZ)	1,500 sq. ft. (IZ)
Semi-Detached Dwelling	30 ft.	3,000 sq. ft.
All Other Structures	40 ft.	4,000 sq. ft.

201.2 First floor or basement areas designed and used for parking space or for recreation space shall not be counted in the floor area ratio; provided, that not more than fifty percent (50%) of the perimeter of the space may be comprised of columns, piers, walls or windows, or may be similarly enclosed.

201.3 A building or structure subject to the provisions of this chapter shall also be subject to the development standards in the applicable RF zone.

201.4 An apartment house in an RF-1, RF-2, or RF-3 zone, whether existing before May 12, 1958, or converted pursuant to the 1958 Regulations, or pursuant to Subtitle U §§ 301.2 or 320.2, may not be renovated or expanded so as to increase the number of dwelling units unless there are nine hundred square feet (900 sq. ft.) of lot area for each dwelling unit, both existing and new.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

202 PENTHOUSES

202.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

203 COURT

203.1 Where a court is provided, the court shall have the following minimum dimensions:

TABLE E § 203.1: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Single dwelling unit	Not applicable	Not applicable	Not applicable
All other structures	2.5 inches per 1 ft. of height of court, but not less than 6 ft.	Width: 2.5 inches per 1 ft. of height of court, but not less than 12 ft.	Twice the square of the required width of court dimension based on the height of the court, but not less than 250 ft.

204 PERVIOUS SURFACE

204.1 The minimum pervious surface requirements for new construction on a lot in an RF zone are set forth in the following table:

TABLE E § 205.1: MINIMUM PERVIOUS SURFACE REQUIREMENTS

	Lot Size Minimum	Pervious Surface Minimum
Residential use	Less than 1,800 sq. ft.	0%
	1,801 to 2,000 sq. ft.	10%
	Larger than 2000 sq. ft.	20%
Places of worship	Not applicable	50%
Public recreation and community center	Not applicable	50%
Public schools	Not applicable	50%
All other structures	Not applicable	50%

205 REAR YARD

205.1 A rear yard shall be provided for each structure located in an RF, the minimum depth of which shall be as set forth in each zone chapter.

205.2 In the case of a lot abutting three (3) or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

205.3 In the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.

206 ROOF TOP OR UPPER FLOOR ADDITIONS

206.1 In an RF zone district, the following provisions shall apply:

(a) A roof top architectural element original to the building such as a turret, tower or dormers, shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size;

(b) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code; and

(c) Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator.

206.2 In an RF zone district, relief from the design requirements of Subtitle E § 206.1 may be approved by the Board of Zoning Adjustment as a special exception under Subtitle Y Chapter 9, subject to the conditions of Subtitle E § 5203.3.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

CHAPTER 3 RESIDENTIAL FLAT ZONE – RF-1

300 PURPOSE AND INTENT

300.1 The purpose of the RF-1 zone is to provide for areas predominantly developed with attached row houses on small lots within which no more than two (2) dwelling units are permitted.

301 DEVELOPMENT STANDARDS

301.1 The development standards in Subtitle E §§ 302 through 307 modify the general development standards in Subtitle E, Chapter 2.

302 MAXIMUM NUMBER OF DWELLING UNITS

302.1 In the RF-1 zone, two (2) dwelling units may be located within the principal structure or one (1) each in the principal structure and an accessory structure.

302.2 A building or structure existing before May 12, 1958 in the RF-1 zone may be used for more than two (2) dwelling units pursuant to Subtitle U, Chapter 3.

302.3 Accessory dwelling units shall not be permitted in a dwelling unit in the RF-1 zone.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

303 HEIGHT

303.1 Except as specified elsewhere in this section, the maximum permitted height of buildings or structures and any additions thereto not including the penthouse, in an RF-1 zone shall not exceed thirty-five feet (35 ft.) and three (3) stories.

303.2 New construction of three (3) or more immediately adjoining residential row dwellings or flats, built concurrently on separate record lots, shall be permitted a maximum building height of forty feet (40 ft.) and three (3) stories.

303.3 A building or other structure may be erected to a height not exceeding forty feet (40 ft.) if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to Subtitle E § 5203.

303.4 The maximum permitted building height for a place of worship, not including the penthouse, in the RF-1 zone shall be sixty feet (60 feet) and three (3) stories.

303.5 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse; provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the natural grade.

303.6 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse; provided, that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.

303.7 The maximum permitted height of a penthouse, except as permitted in Subtitle E § 303.8 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

303.8 A non-residential building constructed pursuant to Subtitle E §§ 303.4 through 303.6 shall be permitted a mechanical penthouse of eighteen feet six inches (18 ft. 6 in.) in height maximum.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

304 LOT OCCUPANCY

304.1 The maximum permitted lot occupancy in the RF-1 zone shall be as set forth in the following table:

STRUCTURE	MAXIMUM PERCENTAGE OF LOT OCCUPANCY
Detached dwellings; Semi-detached dwellings; Row dwellings and flats; Places of worship	60%
Conversion of a building or structure to an apartment house	Greater of 60% or the lot occupancy as of the date of conversion
All other structures	40%

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

305 FRONT SETBACK

305.1 For residential dwellings in the RF-1 zone, a front setback shall be provided that is within the range of existing front setbacks of all structures on the same side of the street in the block where the building is proposed.

306 REAR YARD

306.1 A minimum rear yard of twenty feet (20 ft.) shall be provided in the RF-1 zones.

307 SIDE YARD

307.1 When a new dwelling or flat is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

307.2 A side yard shall not be required along a side street abutting a corner lot in an RF-1 zone.

307.3 No side yard is required for a principal building; however, any side yard provided on any portion of a principal building shall be at least five feet (5 ft.) except as provided in this section.

307.4 In the case of a building existing on or before the effective date of this title, with a non-conforming side yard, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased and provided further, that the width of the existing side yard shall be a minimum of two feet (2 ft.).

308 SPECIAL EXCEPTION

308.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle E §§ 5201, 5203, and 5205.

CHAPTER 4 DUPONT CIRCLE RESIDENTIAL FLAT ZONE – RF-2

400 PURPOSE AND INTENT

400.1 The purpose of the RF-2 zone is to provide for areas proximate to Dupont Circle predominantly developed with attached row houses within which no more than two (2) dwellings are permitted.

400.2 The RF-2 zone is intended to:

(a) Recognize that Dupont Circle area is a unique resource in the District of Columbia that must be preserved and enhanced;

(b) Provide strong protections to retain its low scale, predominantly residential character, independent small retail businesses, human scale streetscapes, and historic character;

(c) Enhance the residential character of the area by maintaining existing residential uses and controlling the scale and density of residential development;

(d) Protect the integrity of "contributing buildings," as that term is defined by the Historic Landmark and Historic District Protection Act of 1978,);

(e) Preserve areas planned as open gardens and backyards and protect the light, air, and privacy that they provide;

(f) Enhance the streetscape by maintaining the public space in front of buildings as landscaped green spaces; and

(g) Encourage greater use of public transportation and the free circulation of vehicles through public streets and alleys.

400.3 The RF-2 zone requires a scale of development consistent with the nature and character of the Dupont Circle area in height and bulk and ensures a general compatibility in the scale of new buildings with older, low-scale buildings.

401 DEVELOPMENT STANDARDS

401.1 The development standards in Subtitle E §§ 402 through 407 modify the general development standards in Chapter 2.

402 MAXIMUM NUMBER OF DWELLING UNITS

402.1 The RF-2 zone permits a maximum of two (2) dwelling units which may both be located within the principal structure or one (1) dwelling unit each may be located within the principal structure and an accessory structure.

402.2 Conversion of an existing building or structure existing before May 12, 1958 in the RF-2 zone for more than two (2) dwelling units shall be subject to Subtitle U, Chapter 3.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

403 HEIGHT

403.1 Except as specified elsewhere in this section, the maximum permitted height of buildings or structures and any additions thereto, not including the penthouse, in an RF-2 zone shall not exceed thirty-five feet (35 ft.) and three (3) stories.

403.2 A building or other structure may be erected to a height not exceeding forty feet (40 ft.) if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to Subtitle E § 5203.

403.3 New construction of three (3) or more immediately adjoining residential row dwellings or flats, built concurrently on separate record lots, shall be permitted a maximum building height of forty feet (40 ft.) and three (3) stories.

403.4 The maximum permitted building height for a place of worship, not including the penthouse, in the RF-2 zone shall be sixty feet (60 ft.) and three (3) stories.

403.5 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse; provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the natural grade.

403.6 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse; provided, that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each one foot (1 ft.) of height in excess of that authorized in the zone in which it is located.

403.7 The maximum permitted height of a penthouse, except as permitted in Subtitle E § 403.8 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

403.8 A non-residential building constructed pursuant to Subtitle E §§ 403.4 through 403.6 shall be permitted a mechanical penthouse of eighteen feet six inches (18 ft. 6 in.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

404 LOT OCCUPANCY

404.1 The maximum permitted lot occupancy in the RF-2 zone shall be as set forth in the following table:

STRUCTURE	MAXIMUM PERCENTAGE OF LOT OCCUPANCY
Detached dwellings; Semi-detached dwellings; Row dwellings and flats; Places of worship	60%
Conversion of a building or structure to an apartment house	Greater of 60% or the lot occupancy as of the date of conversion
All other structures	40%

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

405 FRONT SETBACK

405.1 For residential dwellings in the RF-2 zones, a front setback shall be provided that is within the range of existing front setbacks of all structures on the same side of the street in the block where the building is proposed.

406 REAR YARD

406.1 A minimum rear yard of twenty feet (20 ft.) shall be provided in the RF-2 zone.

407 SIDE YARD

407.1 When a new dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

407.2 A side yard shall not be required along a side street abutting a corner lot in an RF zone.

407.3 A side yard shall not be required for a principal building, however, any side yard provided on any portion of a principal building shall be at least five feet (5 ft.) except as provided in Subtitle E § 407.4.

407.4 In the case of a building existing on or before the effective date of this title, with a non-conforming side yard, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and

provided further, that the width of the existing side yard shall be a minimum of two feet (2 ft.).

408 SPECIAL EXCEPTION

408.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle E §§ 5201, 5203, and 5205.

CHAPTER 5 CAPITOL PRECINCT RESIDENTIAL FLAT ZONE – RF-3

500 PURPOSE AND INTENT

500.1 The purpose of the RF-3 zone is to provide for areas adjacent to the U.S. Capitol precinct predominantly developed with attached houses on small lots within which no more than two (2) dwelling units are permitted.

500.2 The RF-3 zone is intended to:

(a) Promote and protect the public health, safety, and general welfare of the U.S. Capitol precinct and the area adjacent to this jurisdiction, in a manner consistent with the goals and mandates of the United States Congress in Title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288), and in accordance with the plan submitted to the Congress pursuant to the Act;

(b) Reflect the importance of and provide sufficient controls for the area adjacent to the U.S. Capitol;

(c) Provide particular controls for properties adjacent to the U.S. Capitol precinct and the area adjacent to this jurisdiction, having a well-recognized general public interest; and

(d) Restrict some of the permitted uses to reduce the possibility of harming the U.S. Capitol precinct and the area adjacent to this jurisdiction.

501 DEVELOPMENT STANDARDS

501.1 The development standards in Subtitle E §§ 502 through 507 modify the general development standards in Subtitle E, Chapter 2.

502 MAXIMUM NUMBER OF DWELLING UNITS

502.1 The RF-3 zone permits a maximum of two (2) dwelling units that may both be located within the principal structure, or one (1) dwelling unit that may be located in the principal structure and one (1) dwelling unit may be located in an accessory structure.

502.2 Conversion of an exisiting building or structure existing before May 12, 1958 in the RF-3 zone for more than two (2) dwelling units shall be subject to Subtitle U, Chapter 3.

503 HEIGHT

503.1 In the RF-3 zone, building height, not including the penthouse, shall be measured from the existing grade at the mid-point of the building façade of the principal building that is closest to a street lot line.

503.2 The maximum permitted height of buildings or structures and any additions thereto in an RF-3 zone shall not exceed thirty-five feet (35 ft.), and three (3) stories, except as specified in this section.

503.3 New construction of three (3) or more immediately adjoining residential row dwellings or flats, built concurrently on separate record lots, shall be permitted a maximum building height of forty feet (40 ft.) and three (3) stories.

503.4 A building or other structure may be erected to a height not exceeding forty feet (40 ft.) if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to Subtitle E § 5203.

503.5 The height of buildings or structures as specified in Subtitle E §§503.2 through 503.4 may be exceeded in the following instances:

(a) A spire, tower, dome, minaret, pinnacle, or penthouse may be erected to a height in excess of that authorized in Subtitle E§§ 503.2 through 503.4; and

(b) The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, row dwelling, or flat in Subtitle C § 1500.4, shall be ten feet (10 ft.) and one (1) story.

503.6 A non-residential building constructed pursuant to Subtitle E §§ 503.3 through 503.5 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

504 LOT OCCUPANCY

504.1 The maximum permitted lot occupancy in the RF-3 zone shall be as set forth in the following table:

STRUCTURE	MAXIMUM PERCENTAGE OF LOT OCCUPANCY
Detached dwellings; Semi-detached dwellings; Row dwellings and flats; Places of worship	60%
Conversion of a building or structure to an apartment house	Greater of 60% or the lot occupancy as of the date of conversion

STRUCTURE	MAXIMUM PERCENTAGE OF LOT OCCUPANCY
All other structures	40%

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

505 FRONT SETBACK

505.1 For residential dwellings in the RF-3 zone, a front setback shall be provided that is within the range of existing front setbacks of all structures on the same side of the street in the block where the building is proposed.

506 REAR YARD

506.1 A minimum rear yard of twenty feet (20 ft.) shall be provided in the RF-3 zone.

507 SIDE YARD

507.1 When a new dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side

507.2 A side yard shall not be required along a side street abutting a corner lot in an RF-3 zone.

507.3 A side yard shall not be required for a principal building, however, any side yard provided for any portion of a principal building shall be at least five feet (5 ft.) except as provided in Subtitle E § 507.4.

507.4 In the case of a building existing on or before the effective date of this title, with a non-conforming side yard, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of two feet (2 ft.).

508 SPECIAL EXCEPTION

508.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle E §§ 5201, 5202, 5203, and 5205.

CHAPTER 6 RESIDENTIAL FLAT ZONE – RF-4 AND RF-5

600 PURPOSE AND INTENT

600.1 The purpose of the RF-4 and RF-5 zones is to provide for areas predominantly developed with attached row houses of three (3) or more stories and within which may also exist a mix of apartment buildings.

600.2 The RF-4 and RF-5 zones are typically, but not exclusively, established residential neighborhoods adjacent or proximate to higher density zones including residential, mixed-use, and downtown areas.

600.3 The RF-4 and RF-5 zones are intended to promote the continued rowhouse character and appearance, and residential use of larger row house buildings.

601 DEVELOPMENT STANDARDS

601.1 The development standards in Subtitle E §§ 602 through 604 modify the general development standards in Subtitle E, Chapter 2.

602 FAR AND MAXIMUM NUMBER OF DWELLING UNITS

602.1 The maximum permitted floor area ratio (FAR) for all buildings and structures in the RF-4 and RF-5 zones shall be 1.8.

602.2 The RF-4 zone permits a maximum of three (3) dwelling units that may all be located within the principal structure, or no more than one (1) of the dwelling units may be located within an accessory structure.

602.3 The RF-5 zone permits a maximum of four (4) dwelling units that may all be located within the principal structure, or no more than one (1) of the dwelling units may be located within an accessory structure.

603 HEIGHT

603.1 The maximum permitted building height in the RF-4, not including the penthouse, shall be forty feet (40 ft.) and three (3) stories.

603.2 The maximum permitted building height in the RF-5, not including the penthouse, shall be:

(a) Forty feet (40 ft.) and three (3) stories for detached and semi-detached dwellings; and

(b) Fifty feet (50 ft.) and four (4) stories for row dwellings and flats and all other structures.

603.3 A place of worship in the RF-4 and RF-5 zones may be erected to a height not exceeding shall be sixty feet (60 ft.) and three (3) stories.

603.4 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided, that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the natural grade.

603.5 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided, that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.

603.6 The maximum permitted height of a penthouse, except as permitted in Subtitle E § 603.7 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

603.7 A non-residential building constructed pursuant to Subtitle E §§ 603.3 through 603.5 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6 in.).

604 LOT OCCUPANCY

604.1 The maximum permitted lot occupancy for the RF-4 and RF-5 zones shall be sixty percent (60%).

605 FRONT SETBACK

605.1 For residential dwellings in the RF-4 and RF-5 zones, a front setback shall be provided that is within the range of existing front setbacks of all structures on the same side of the street in the block where the building is proposed.

606 REAR YARD

606.1 A minimum rear yard of twenty-foot (20 ft.) shall be provided in the RF-4 and RF-5 zones.

607 SIDE YARD

607.1 When a new dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

607.2 A side yard shall not be required along a side street abutting a corner lot in an RF-4 and RF-5 zone.

607.3 A side yard shall not be required for a principal building, however, any side yard provided for any portion of a principal building shall be at least five feet (5 ft.) except as provided in Subtitle E § 607.4.

607.4 In the case of a building existing on or before the effective date of this title, with a non-conforming side yard, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of two feet (2 ft.).

608 SPECIAL EXCEPTION

608.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle E §§ 5201, 5203, and 5205.

CHAPTER 7 THROUGH CHAPTER 49 [RESERVED]

CHAPTER 50 ACCESSORY BUILDING REGULATIONS FOR RF ZONES

5000 GENERAL PROVISIONS

5000.1 Accessory buildings shall be permitted within an RF zone subject to the following conditions:

(a) An accessory building shall be subordinate to and located on the same lot as the building to which it is accessory; provided, that required accessory parking space may be permitted on another lot where specifically permitted under other provisions of this title;

(b) An accessory building shall be used for purposes which are incidental to the use of the principal building but may house no more than one (1) principal unit;

(c) An accessory building shall not be constructed prior to a principal building on the same lot; and

(d) An accessory building shall not be constructed in front of the principal building.

5000.2 The accessory buildings shall be secondary in size compared to the principal building, and shall be considered within the lot occupancy, pervious surface, as applicable the floor area ratio requirements of the RF zones.

5001 DEVELOPMENT STANDARDS

5001.1 The bulk of accessory buildings in the RF zones shall be controlled through the development standards in Subtitle E §§ 5002 through 5006.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

5002 HEIGHT

5002.1 The maximum permitted height for an accessory building in an RF zone shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.

5003 LOT OCCUPANCY

5003.1 The maximum lot occupancy for an accessory building in an RF zone shall be the greater of thirty percent (30%) of the required rear yard area or four-hundred and fifty square feet (450 sq. ft.).

5004 REAR YARD

5004.1 No minimum rear yard is required for an accessory building in an RF zone except when abutting an alley, where it shall be set back at least twelve feet (12 ft.) from the center line of the alley.

5004.2 An accessory building shall be permitted in a required rear yard of a principal building pursuant to the following conditions:

(a) The accessory building is less than ten feet (10 ft.) in height; and

(b) The accessory building is less than one hundred square feet (100 sq. ft.) in gross floor area.

5004.3 If the required rear yard of the principal building in which the accessory building will be placed abuts an alley, the accessory building shall be set back at least twelve feet (12 ft.) from the center line of the alley.

5005 SIDE YARD

5005.1 No minimum side yard is required for an accessory building in an RF zone.

5005.2 An accessory building shall be permitted in a required side yard of a principal building pursuant to the following conditions:

(a) The accessory building is less than ten feet (10 ft.) in height;

(b) The accessory building is less than one hundred square feet (100 sq. ft.) in gross floor area; and

(c) If the required side yard of the principal building in which the accessory building will be placed abuts an alley, the accessory building shall be set back at least twelve feet (12 ft.) from the center line of the alley.

5006 MISCELLANEOUS

5006.1 The development standards that permit the following uses are located in Subtitle U, Chapter 3:

(a) A permitted principal dwelling unit in an RF zone within an accessory building; and

(b) A private vehicle garage that is an accessory building in an RF zone.

5007 SPECIAL EXCEPTION

5007.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle E §§ 5201.

CHAPTER 51 ALLEY LOT REGULATIONS

5100 GENERAL PROVISIONS

5100.1 All alley lots must be recorded in the records of the Office of the Surveyor as a record lot.

5100.2 New alley lots may be created as provided in Subtitle C, Chapter 3.

5101 DEVELOPMENT STANDARDS

5101.1 The bulk of accessory buildings in the RF zones shall be controlled through the development standards in Subtitle E §§ 5102 through 5108.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

5102 HEIGHT

5102.1 The maximum height and stories of buildings on alley lots in RF zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.

5103 LOT OCCUPANCY

5103.1 A building or structure shall not occupy an alley lot in excess of the maximum lot occupancy as set forth in the following table:

TABLE F § 5103.1: MAXIMUM PERMITTED LOT OCCUPANCY FOR AN ALLEY LOT

Alley Lot Size	Maximum Lot Occupancy
Less than 1,800 sq. ft.	N/A
Between 1,800 sq. ft. and 2,000 sq. ft.	90%
Larger than 2,000 sq. ft.	80%

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

5104 REAR YARD

5104.1 A required rear yard shall be provided with a minimum depth of five (5) feet from any lot line of all abutting non-alley lots.

5105 SIDE YARD

5105.1 A required side yard shall be provided with a minimum depth of five (5) feet from any lot line of all abutting non-alley lots.

5106 ALLEY CENTERLINE SETBACK

5106.1 A required twelve foot (12 ft.) setback from the centerline of all alleys to which the alley lot abuts shall be provided.

5107 PERVIOUS SURFACE

5107.1 The minimum required pervious surface shall be ten percent (10%).

5108 SPECIAL EXCEPTION

5108.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle E § 5204.

CHAPTER 52 RELIEF FROM DEVELOPMENT STANDARDS

5200 GENERAL PROVISIONS

5200.1 The following provisions provide for relief to the development standards and regulations in the RF zones as a special exception subject to the provisions of this chapter and the general special exception criteria at Subtitle X, Chapter 9.

5200.2 Requested relief that does not comply with specific conditions or limitations of a special exception shall be processed as a variance.

5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE

5201.1 The Board of Zoning Adjustment may approve as a special exception in the RF zones, relief from the following development standards of this subtitle, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9.

(a) Lot occupancy;

(b) Yards;

(c) Courts;

(d) Minimum lot dimensions;

(e) Pervious surface; and

(f) The limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.

5201.2 Special exception relief under this section is applicable only to the following:

(a) An addition to a residential building;

(b) A new or enlarged accessory structure that is accessory to such a building; or

(c) A reduction in the minimum setback requirements of an alley lot.

5201.3 An applicant for special exception under this section shall demonstrate that the addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(a) The light and air available to neighboring properties shall not be unduly affected;

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

(c) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage;

(d) In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways; and

(e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).

5201.4 The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

5201.5 This section shall not be used to permit the introduction or expansion of a nonconforming use as a special exception.

5201.6 This section shall not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.

5202 SPECIAL EXCEPTION CRITERIA CAPITOL INTEREST ZONES (RF-3)

5202.1 In the RF-3 zone, in addition to any conditions relative to the specific special exception, any special exception application shall be subject to consideration by the Board of Zoning Adjustment as to whether the proposed development is:

(a) Compatible with the present and proposed development of the neighborhood;

(b) Consistent with the goals and mandates of the United States Congress in title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub.L. No. 94-59, 89 Stat. 288); and

(c) In accordance with the plan promulgated under the Act.

5202.2 Upon receipt of the application, the Board shall submit the application to the Architect of the Capitol for review and report.

5202.3 The Board may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impacts identified in the consideration of the application.

5203 BUILDING HEIGHT

5203.1 The Board of Zoning Adjustment may grant as a special exception a maximum building height for a principal residential building and any additions thereto of forty feet (40 ft.) subject to the following conditions:

(a) The building is not on an alley lot;

(b) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code;

(c) Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator;

(d) A roof top architectural element original to the house such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size;

(e) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(1) The light and air available to neighboring properties shall not be unduly affected;

(2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and

(3) The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street or alley; and

(f) In demonstrating compliance with Subtitle E § 5203.1(e) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways.

5203.2 The Board of Zoning Adjustment may modify or waive not more than two (2) of the requirements specified in Subtitle E §§ 5203.1(a) through (f) provided, that

any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle E § 5203.1(e).

5203.3 A special exception to the requirements of Subtitle E § 206 shall be subject to the conditions of Subtitle E § 5203.1(b), (c), and (d). If relief is granted from compliance with Subtitle E § 206.1(b) or (c), the special exception shall not be conditioned upon compliance with that same requirement as stated in Subtitle E § 5203.1(b)(3) and (4)..

5203.4 The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

5204 SPECIAL EXCEPTION CRITERIA ALLEY LOTS

5204.1 The Board of Zoning Adjustment may approve as a special exception a reduction in the minimum yard requirements of an alley lot in an RF zone may be approved as a special exception pursuant to Subtitle X, Chapter 9.

5205 SPECIAL EXCEPTION FROM PENTHOUSE PROVISIONS

5205.1 The Board of Zoning Adjustment may grant special exception relief from the penthouse requirements of this subtitle pursuant to the provisions of Subtitle C §§ 1504.1 and 1504.2.

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SUBTITLE F RESIDENTIAL APARTMENT (RA) ZONES

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CHAPTER 1 INTRODUCTION TO RESIDENTIAL APARTMENT (RA) ZONES

100 GENERAL PROVISIONS

100.1 The Residential Apartment (RA) zones permit urban residential development and compatible institutional and semi-public buildings.

100.2 The RA zones are designed to be mapped in areas identified as moderate- or high-density residential areas suitable for multiple dwelling unit development and supporting uses.

100.3 In addition to the purpose statements of individual chapters, the provisions of the RA zones are intended to:

(a) Provide for the orderly development and use of land and structures in areas characterized by predominantly moderate- to high-density residential uses;

(b) Permit flexibility by allowing all types of residential development;

(c) Promote stable residential areas while permitting a variety of types of urban residential neighborhoods;

(d) Promote a walkable living environment;

(e) Allow limited non-residential uses that are compatible with adjoining residential uses;

(f) Encourage compatibility between the location of new buildings or construction and the existing neighborhood; and

(g) Ensure that buildings and developments around fixed rail stations, transit hubs, and streetcar lines are oriented to support active use of public transportation and safety of public spaces.

101 DEVELOPMENT STANDARDS

101.1 The bulk of structures in the RA zones shall be controlled through the combined requirements of the general development standards of this subtitle, the zone-specific development standards of this subtitle, and the requirements and standards of Subtitle C.

101.2 The development standards are intended to:

(a) Control the bulk or volume of structures, including height, floor area ratio

(FAR), and lot occupancy;

(b) Control the location of building bulk in relation to adjacent lots and streets, by regulating rear yards, side yards, and the relationship of buildings to street lot lines;

(c) Regulate the mixture of uses; and

(d) Promote the environmental performance of development.

101.3 Development standards may be varied or waived by the Board of Zoning Adjustment as a variance or, when permitted in this title, as a special exception. Additional zone specific special exception criterion, if applicable, shall be considered by the Board and are referenced in this subtitle.

101.4 For those zones with geographic identification, the boundaries are cited in Subtitle W and identified on the official Zoning Map. When there is a conflict between the official Zoning Map and the boundaries described in Subtitle W, the Office of Zoning shall determine the correct boundaries through a zoning certification.

101.5 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

102 USE PERMISSIONS

102.1 Use permissions for the RA zones are as specified in Subtitle U, Chapter 4.

102.2 Use permissions within a penthouse are as specified in Subtitle C § 1500.3.

103 PARKING

103.1 Parking requirements for the RA zones are as specified in Subtitle C, Chapter 7.

104 PUBLIC EDUCATION, RECREATION, OR LIBRARY BUILDINGS AND STRUCTURES

104.1 Public education buildings and structures, public recreation and community center, or public library in the RA zones shall be permitted subject to the conditions of Subtitle C, Chapter 16.

105 INCLUSIONARY ZONING

105.1 Inclusionary zoning requirements for the RA zones are as specified in Subtitle C, Chapter 10.

CHAPTER 2 GENERAL DEVELOPMENT STANDARDS (RA)

200 GENERAL PROVISIONS

200.1 The provisions of this chapter apply to all zones except as may be modified or otherwise provided for in a specific zone.

200.2 When modified or otherwise provided for in the development standards for a specific zone, the modification or zone specific standard shall apply.

201 DENSITY – FLOOR AREA RATIO AND LOT DIMENSIONS

201.1 First floor or basement areas designed and used for parking space or for recreation space shall not be counted in the floor area ratio; provided, that not more than fifty percent (50%) of the perimeter of the space may be comprised of columns, piers, walls or windows, or may be similarly enclosed.

201.2 In the RA-1 zone, each row dwelling shall have at least one thousand eight hundred square feet (1,800 sq. ft.) of gross land area exclusive of any land area in the project used as a basis for determining the floor area ratio of multiple dwelling unit buildings.

201.3 Each row dwelling need not have a site of one thousand eight hundred square feet (1,800 sq. ft.) and the difference between the site area and the gross land area may be accumulated into common spaces. Land area used to support this floor area ratio of multiple dwelling unit buildings may also be used for common spaces.

201.4 Lot area and lot width for residential uses permitted as a special exception shall be as prescribed by the Board of Zoning Adjustment.

202 COURTS

202.1 A court is not required, but if provided, it shall have the following minimum dimensions:

TABLE F § 202.1: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than 3 units:	4 in./ft. of height of court but not less than 10 ft. minimum	4 in./ft. of height of court but not less than 15 ft. minimum	Twice the square of the required width of court dimension but not less than 350 sq. ft. minimum
Non-Residential and Lodging:	2.5 in./ft. of height of court but not less than 6 ft. minimum	2.5 in./ft. of height of court but not less than 12 ft. minimum	Twice the square of the required width of court dimension but not less than 250 sq. ft. minimum

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10920 (August 19, 2016).

203 HEIGHT

203.1 Except in the RA-6 and RA-7 zones, and except as provided in the Subtitle A § 402, the height of buildings or structures specified in each zone of this subtitle may be exceeded as provided in this section.

203.2 A place of worship may be erected to a height not exceeding sixty feet (60 ft.) and three (3) stories, not including the penthouse.

203.3 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each one foot (1 ft.) of height in excess of that authorized in the district in which it is located.

203.4 Except as provided in Subtitle F §§ 203.2 and 203.3, a building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the natural grade.

204 PENTHOUSES

204.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

204.2 A non-residential building constructed pursuant to Subtitle F §§ 203.2 through 203.4 shall be permitted a mechanical penthouse of eighteen feet six inches (18 ft. -6 in.) in height maximum.

CHAPTER 3 RESIDENTIAL APARTMENT ZONES – RA-1, RA-2, RA-3, RA-4, AND RA-5

300 PURPOSE AND INTENT

300.1 The purposes of the RA-1, RA-2, RA-3, RA-4, and RA-5 zones are to:

(a) Permit flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for these districts; and

(b) Permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive residential zones.

300.2 The RA-1 zone provides for areas predominantly developed with low- to moderate-density development, including detached dwellings, rowhouses, and low-rise apartments.

300.3 The RA-2 zone provides for areas developed with predominantly moderate-density residential.

300.4 The RA-3 zone provides for areas developed with predominantly medium-density residential.

300.5 The RA-4 zone provides for areas developed with predominantly medium- to high-density residential.

300.6 The RA-5 zone provides for areas developed with predominantly high-density residential.

301 DEVELOPMENT STANDARDS

301.1 The development standards in Subtitle F §§ 302 through 307 modify the general development standards in Subtitle F, Chapter 2.

302 DENSITY – FLOOR AREA RATIO (FAR)

302.1 Except as provided in other provisions of this subtitle and in Subtitle C, Chapter 15, the maximum permitted FAR in the RA-1 through RA-5 zone shall be as set forth in the following table:

TABLE F § 302.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR
RA-1	0.9
RA-2	1.8
RA-3	3.0
RA-4	3.5
RA-5	5.0 6.0 for an apartment house or hotel

303 HEIGHT

303.1 Except as permitted in Subtitle F § 203, the maximum permitted building height, not including the penthouse, in the RA-1 through RA-5 zones shall be as set forth in the following table:

TABLE F § 303.1: MAXIMUM PERMITTED BUILDING HEIGHT/STORIES

Zone	Maximum Height (Feet)	Maximum Number of Stories
RA-1	40	3
RA-2	50	No Limit
RA-3	60	No Limit
RA-4	90	No Limit
RA-5	90	No Limit

303.2 The maximum permitted height of a penthouse, except as permitted in Subtitle F § 204 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse or flat in Subtitle C § 1500.4, shall be as set forth in the following table:

TABLE F § 303.2: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

Zone	Maximum Penthouse Height	Maximum Penthouse Stories
RA-1	12 ft.	1
RA-2	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
RA-3	12 ft., except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
RA-4	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space
RA-5	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space

304 LOT OCCUPANCY

304.1 Except as provided in other provisions of this chapter, the maximum permitted lot occupancy shall be established for lots in the RA-1, RA-2, RA-3, RA-4, and RA-5 zones as set forth in the following table:

TABLE F § 304.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy (Percentage)
RA-1	40
RA-2	60
RA-3	75
RA-4	75
RA-5	75

305 REAR YARD

305.1 A minimum rear yard shall be established for lots in the RA-1, RA-2, RA 3, RA-4 and RA-5 zones as set forth in the following table:

TABLE F § 304.1: MINIMUM REAR YARD

Zone	Minimum Rear Yard
RA-1	20 ft.
RA-2	A distance equal to 4 in. per 1 ft. of principal building height but not less than 15 ft.
RA-3	A distance equal to 4 in. per 1 ft. of principal building height but not less than 15 ft.
RA-4	A distance equal to 4 in. per 1 ft. of principal building height but not less than 15 ft.
RA-5	A distance equal to 3 in. per 1 ft. of principal building height but not less than 12 ft.

305.2 In the case of a through lot or a corner lot abutting three (3) or more streets, the depth of a rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

305.3 In the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

306 SIDE YARD

306.1 A minimum side yard shall be established for lots in the RA-1, RA-2, RA-3, RA-4, and RA-5 zones as follows:

(a) In the RA-1 zone, one (1) side yard shall be provided for all structures unless the structure contains three (3) or more dwelling units per floor, in which case two (2) side yards shall be provided, each with the minimum distance equal to three inches (3 in.) per foot of building height but not less than eight feet (8 ft.); and

(b) In the RA-2, RA-3, RA-4, and RA-5 zones, no side yard shall be required; however, if a side yard is provided, it shall be no less than four feet (4 ft.).

306.2 An eight-foot (8 ft.) side yard shall be provided for a detached and semi-detached structure in the RA-1, RA-2, RA-3, RA-4, and RA-5 zones.

306.3 When a new dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

306.4 A side yard shall not be required along a side street abutting a corner lot in an RA-1, RA-2, RA-3, RA-4, and RA-5 zone.

306.5 In the case of a building existing on or before the effective date of this title, with a non-conforming side yard, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of two feet (2 ft.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

307 GREEN AREA RATIO

307.1 The minimum green area ratio (GAR) shall be 0.4 in the RA-1 and RA-2 zones and 0.3 in the RA-3, RA-4, and RA-5 zones.

308 SPECIAL EXCEPTION

308.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X and subject to the provisions and limitations of Subtitle F §§ 5201 and 5205.

CHAPTER 4 NAVAL OBSERVATORY RESIDENTIAL APARTMENT ZONE – RA-6

400 PURPOSE AND INTENT

400.1 The RA-6 zone provides for areas predominantly developed with low- to moderate-density development, including detached dwellings, rowhouses, and low-rise apartments in the vicinity of the U.S. Naval Observatory.

400.2 The RA-6 zone is intended to:

(a) Promote the public health, safety, and general welfare on land adjacent to or in close proximity to the highly sensitive and historically important Naval Observatory, in keeping with the goals and policies of the Federal and District elements of the Comprehensive Plan and the adopted Master Plan for that facility;

(b) Ensure that public land within the zone shall be used in a manner consistent with the historic or ceremonial importance and special missions of the Naval Observatory;

(c) Reflect the importance of the Naval Observatory to the District of Columbia and the Nation;

(d) Provide additional controls on private land to protect Federal interest concerns, including the critical scientific mission performed at the Naval Observatory and the security needs of the Vice-President's residence; and

(e) Provide development standards to reduce or eliminate any possible harm or restrictions on the mission of the Federal establishment within the zone.

401 DEVELOPMENT STANDARDS

401.1 The development standards in Subtitle F §§ 402 through 408 modify the general development standards in Subtitle F, Chapter 2.

401.2 The provisions of Subtitle X, Chapter 3 of this title shall not operate to permit a planned unit development in the RA-6 zone to exceed either the limits of Subtitle F § 402.1, or the area, bulk, and yard standards that apply as a matter-of-right in the RA-6 zone.

402 DENSITY – FLOOR AREA RATIO (FAR)

402.1 The maximum permitted FAR in the RA-6 zone shall be 0.9.

403 HEIGHT

403.1 The maximum permitted building height in the RA-6 zone, not including the penthouse, shall be forty feet (40 ft.) and three (3) stories.

403.2 For the purposes of the RA-6 zone, the height of a building shall be measured as follows:

(a) The height of a building shall be the vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest point of the roof or parapet; and

(b) The curb elevation opposite the middle of the front of the building shall be determined as the average elevation of the lot from its front line to its rear lot line.

403.3 The maximum permitted height of a penthouse, except as permitted in Subtitle F § 204 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) except fifteen feet (15 ft.) for penthouse mechanical space, and one (1) story.

404 LOT OCCUPANCY

404.1 The maximum permitted lot occupancy in the RA-6 zone shall be forty percent (40%).

405 REAR YARD

405.1 In the RA-6 zone a minimum rear yard of twenty feet (20 ft.) shall be provided.

405.2 In the case of a through lot or a corner lot abutting three (3) or more streets, the depth of a rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

405.3 In the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.

406 SIDE YARD

406.1 In the RA-6 zone, one (1) side yard shall be provided for all structures unless the structure contains three (3) or more dwelling units per floor, in which case two (2) side yards shall be provided, each with the minimum distance equal to three inches (3 in.) per foot of building height but not less than eight feet (8 ft.).

406.2 An eight-foot (8 ft.) side yard shall be provided for a detached and semi-detached dwelling in the RA-6 zone.

406.3 When a new dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

406.4 A side yard shall not be required along a side street abutting a corner lot in an RA-6 zone.

406.5 In the case of a building existing on or before the effective date of this title, with a non-conforming side yard, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of two feet (2 ft.).

407 GREEN AREA RATIO

407.1 The minimum GAR in the RA-6 zone shall be 0.4.

408 SPECIAL EXCEPTION

408.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X and subject to the provisions and limitations of Subtitle F §§ 5201, 5203, and 5205.

CHAPTER 5 CAPITOL PRECINCT RESIDENTIAL APARTMENT ZONE - RA-7

500 PURPOSE AND INTENT

500.1 The RA-7 zone provides for areas developed with predominantly moderate- and medium-density rowhouses and apartments, and is intended to:

(a) Promote and protect the public health, safety, and general welfare of the U.S. Capitol precinct and the area adjacent to this jurisdiction, in a manner consistent with the goals and mandates of the United States Congress in Title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288), and in accordance with the plan submitted to the Congress pursuant to the Act;

(b) Reflect the importance of and provide sufficient controls for the area adjacent to the U.S. Capitol;

(c) Provide particular controls for properties adjacent to the U.S. Capitol precinct and the area adjacent to this jurisdiction having a well-recognized general public interest; and

(d) Restrict some of the permitted uses to reduce the possibility of harming the U.S. Capitol precinct and the area adjacent to this jurisdiction.

501 DEVELOPMENT STANDARDS

501.1 The development standards in Subtitle F §§ 502 through 507 modify the general development standards in Subtitle F, Chapter 2.

502 DENSITY– FLOOR AREA RATIO (FAR)

502.1 The maximum permitted FAR in the RA-7 zone shall be 1.8 FAR.

503 HEIGHT

503.1 The maximum permitted building height, not including the penthouse, in the RA-7 zone shall be forty feet (40 ft.) and three (3) stories.

503.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be ten feet (10 ft.) and one (1) story.

504 LOT OCCUPANCY

504.1 The maximum permitted lot occupancy in the RA-7 zone shall be sixty percent (60%).

505 REAR YARD

505.1 The minimum rear yard shall be fifteen feet (15 ft.) or a distance equal to four inches (4 in.) per one foot (1 ft.) of principal building height.

505.2 In the case of a through lot or a corner lot abutting three (3) or more streets, the depth of a rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

505.3 In the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.

506 SIDE YARD

506.1 In the RA-7 zones, no side yard shall be required; however, if a side yard is provided, it shall be no less than four feet (4 ft.).

506.2 An eight-foot (8 ft.) side yard shall be provided for a detached and semi-detached dwelling in the RA-7 zone.

506.3 When a new dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

506.4 A side yard shall not be required along a side street abutting a corner lot in an RA-7 zone.

506.5 In the case of a building existing on or before the effective date of this title, with a non-conforming side yard, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of two feet (2 ft.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

507 GREEN AREA RATIO

507.1 The minimum required GAR in the RA-7 zone shall be 0.4.

508 SPECIAL EXCEPTION

508.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X and subject to the provisions and limitations of Subtitle F §§ 5201, 5202, and 5205.

CHAPTER 6 DUPONT CIRCLE RESIDENTIAL APARTMENT ZONES – RA-8, RA-9, AND RA-10

600 PURPOSE AND INTENT

600.1 The Dupont Circle RA zones (RA-8, RA-9, and RA-10) are intended to:

(a) Recognize the Dupont Circle area is a unique resource in the District of Columbia that must be preserved and enhanced;

(b) Provide strong protections to retain its low scale, predominantly residential character, independent small retail businesses, human scale streetscapes, and historic character;

(c) Enhance the residential character of the area by maintaining existing residential uses and controlling the scale and density of residential development;

(d) Protect the integrity of "contributing buildings", as that term is defined by the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Official Code §§ 6-1101 to 6-1115 (formerly codified at D.C. Official Code §§ 5-1001 to 5-1015 (1994 Repl. & 1999 Supp.)));

(e) Preserve areas planned as open gardens and backyards and protect the light, air, and privacy that they provide;

(f) Enhance the streetscape by maintaining the public space in front of buildings as landscaped green spaces; and

(g) Encourage greater use of public transportation and the free circulation of vehicles through public streets and alleys.

600.2 The RA-8 zone provides for areas developed with predominantly moderate-density apartments.

600.3 The RA-9 zone provides for areas developed with predominantly medium- to high-density apartments.

600.4 The RA-10 zone provides for areas developed with predominantly high-density apartments.

600.5 No garage or associated driveway providing access to required parking spaces or loading berths shall be permitted along Connecticut Avenue from N Street, N.W., to Florida Avenue, N.W.

601 DEVELOPMENT STANDARDS

601.1 The development standards in Subtitle F §§ 602 through 607 modify the general development standards in Subtitle F, Chapter 2.

602 DENSITY– FLOOR AREA RATIO (FAR)

602.1 Except as provided in other provisions of this subtitle and in Subtitle C, Chapter 15, the maximum permitted FAR in the RA-8, RA-9, and RA-10 zone shall be as set forth in the following table:

TABLE F § 602.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR
RA-8	1.8
RA-9	3.5
RA-10	5.0 6.0 for an apartment house or hotel

603 HEIGHT

603.1 Except as permitted in Subtitle F § 203, the maximum permitted building height, not including the penthouse, in the RA-8, RA-9, and RA-10 zones shall be as set forth in the following table:

TABLE F § 603.1: MAXIMUM PERMITTED BUILDING HEIGHT/STORIES

Zone	Maximum Height (Feet)	Maximum Number of Stories
RA-8	50	No Limit
RA-9	90	No Limit
RA-10	90	No Limit

603.2 The maximum permitted height of a penthouse, except as permitted in Subtitle F § 204 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be as set forth in the following table:

TABLE F § 603.2: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

Zone	Maximum Penthouse Height	Maximum Penthouse Stories
RA-8	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
RA-9	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space

Zone	Maximum Penthouse Height	Maximum Penthouse Stories
RA-10	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space

604 LOT OCCUPANCY

604.1 The maximum lot occupancy shall be established for lots in the RA-8, RA-9, and RA-10 zones as set forth in the following table:

TABLE F § 604.1: MAXIMUM PERCENTAGE OF LOT OCCUPANCY

Zone	Maximum Lot Occupancy (Percentage)
RA-8	60
RA-9	75
RA-10	75

605 REAR YARD

605.1 A minimum rear yard shall be established for lots in the RA-8, RA-9, and RA-10 zones as set forth in the following table:

TABLE F § 605.1: MINIMUM REAR YARD

Zone	Minimum Rear Yard
RA-8	15 ft.; or A distance equal to 4 in. per 1 ft. of principal building height
RA-9	15 ft.; or A distance equal to 4 in. per 1 ft. of principal building height
RA-10	12 ft.; or A distance equal to 3 in. per1 ft. of principal building height

605.2 In the case of a through lot or a corner lot abutting three (3) or more streets, the depth of a rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

605.3 In the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.

606 SIDE YARD

606.1 No side yard shall be required in the RA-8, RA-9, and RA-10 zones; however, if a side yard is provided, it shall be no less than four feet (4 ft.).

606.2 An eight-foot (8 ft.) side yard shall be provided for a detached and semi-detached dwelling in the RA-8, RA-9, and RA-10 zones.

606.3 When a new dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

606.4 A side yard shall not be required along a side street abutting a corner lot in the RA-8, RA-9, and RA-10 zones.

606.5 In the case of a building existing on or before the effective date of this title, with a non-conforming side yard, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of two feet (2 ft.).

607 GREEN AREA RATIO

607.1 The minimum green area ratio (GAR) shall be 0.4 in the RA-8 zone and 0.3 in the RA-9 and RA-10 zones.

608 SPECIAL EXCEPTION

608.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X and subject to the provisions and limitations of Subtitle F §§ 5201, 5202, and 5205.

CHAPTER 7 THROUGH CHAPTER 49 [RESERVED]

CHAPTER 50 ACCESSORY BUILDINGS REGULATIONS (RA)

5000 GENERAL PROVISIONS

5000.1 Accessory buildings shall be permitted within an RA zone subject to the following conditions:

(a) The accessory building is subordinate to and located on the same lot as the building to which it is accessory; provided, that required accessory parking space may be permitted on another lot where specifically permitted under other provisions of this title;

(b) An accessory building shall be used for purposes which are incidental to the use of the principal building; and

(c) An accessory building shall not be constructed prior to a principal building on the same lot.

5000.2 The accessory buildings shall be secondary in size compared to the principal building; and shall be considered within the lot occupancy and shall comply with all required yards for accessory buildings based on the zone in which they are located.

5001 DEVELOPMENT STANDARDS FOR ACCESSORY BUILDINGS

5001.1 The bulk of accessory buildings in the RA zones shall be controlled through the development standards in Subtitle F §§ 5001 through 5004.

5002 HEIGHT

5002.1 The maximum permitted height for an accessory building shall be twenty feet (20 ft.) and two (2) stories.

5003 REAR YARD

5003.1 No rear yard shall be required for an accessory building except where abutting an alley a minimum rear yard of twelve feet (12 ft.) shall be provided measured from the center line of the alley.

5004 MISCELLANEOUS

5004.1 The lot upon which a private garage is located shall be exempt from the requirements for minimum lot dimensions, but shall be subject to the limitation on percentage of lot occupancy.

5004.2 Accessory buildings on any lot shall be included in the maximum lot occupancy and GAR requirements and if applicable, the FAR, as listed and conditioned in this subtitle and the development standards of the penthouse regulations in Subtitle C, Chapter 15.

5004.3 A private garage that is an accessory building in an RA zone:

(a) May be located either within a rear yard or beside the main building; provided, if the garage is located beside the main building, it shall be removed from the side lot line a distance equal to the required side yard and from all building lines a distance of not less than ten feet (10 ft.); and

(b) Where abutting an alley, it shall be set back at least twelve feet (12 ft.) from the center line of the alley.

5004.4 A private garage permitted in an RA zone as a principal use on a lot other than an alley lot shall open directly onto an alley, and shall not be located within fifty feet (50 ft.) of the front building line or within twelve feet (12 ft.) of the center line of an alley.

5005 SPECIAL EXCEPTION

5005.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X and subject to the provisions and limitations of Subtitle F § 5201.

CHAPTER 51 ALLEY LOT REGULATIONS (RA)

5100 GENERAL PROVISIONS

5100.1 All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia, as a record lot.

5100.2 New alley lots may be created as provided in Subtitle C, Chapter 3.

5101 DEVELOPMENT STANDARDS

5101.1 The development standards of this chapter shall apply to buildings on alley lots in RA zones.

5102 HEIGHT

5102.1 The maximum height and stories of building on alley lots in RA zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.

5103 REAR YARD

5103.1 A required rear yard shall be provided with a minimum depth of five feet (5 ft.) from any lot line of all abutting non-alley lots.

5104 SIDE YARD

5104.1 A required side yard shall be provided with a minimum depth of five feet (5 ft.) from any lot line of all abutting non-alley lots.

5105 ALLEY CENTERLINE SETBACK

5105.1 A required twelve foot (12 ft.) yard from the centerline of all alleys to which the alley lot abuts shall be provided.

5106 PERVIOUS SURFACE

5106.1 The minimum required pervious surface shall be not less than ten percent (10%).

5107 SPECIAL EXCEPTION

5107.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X and subject to the provisions and limitations of Subtitle F § 5201.

CHAPTER 52 RELIEF FROM REQUIRED DEVELOPMENT STANDARDS (RA)

5200 GENERAL PROVISIONS

5200.1 The provisions of this chapter provide for relief to the development standards and regulations in the RA zones as a special exception subject to the provisions of this chapter and the general special exception criteria at Subtitle X, Chapter 9.

5200.2 Requested relief that does not comply with specific conditions or limitations of a special exception shall be processed as a variance.

5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE

5201.1 The Board of Zoning Adjustment may grant special exception relief from the following development standards of this subtitle, subject to the provisions of this section and the general special exception criteria at Subtitle X.

(a) Lot occupancy;

(b) Yards; and

(c) Green area ratio.

5201.2 Special exception relief under this section is applicable only to the following:

(a) An addition to an existing residential building; or

(b) A new or enlarged accessory structure that is accessory to such a building.

5201.3 An application for special exception under this section shall demonstrate that the addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(a) The light and air available to neighboring properties shall not be unduly compromised;

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

(c) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage;

(d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways; and

(e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).

5201.4 The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

5201.5 This section shall not be used to permit the introduction or expansion of a nonconforming use as a special exception.

5201.6 This section shall not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.

5202 SPECIAL EXCEPTION CRITERIA FOR RA-7 (CAPITOL INTEREST) ZONE

5202.1 In the RA-7 zone, any special exception application shall be subject to the following conditions in addition to any conditions relative to the specific special exception:

(a) Compatible with the present and proposed development of the neighborhood;

(b) Consistent with the goals and mandates of the United States Congress in Title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288); and

(c) In accordance with the plan promulgated under the Act.

5202.2 Upon receipt of the application, the Board shall submit the application to the Office of Planning for coordination, review, report, and impact assessment along with reviews in writing of all relevant District departments and agencies including the Departments of Transportation, Housing and Community Development, and, if a historic district or historic landmark is involved, the Historic Preservation Office.

5202.3 Upon receipt of the application, the Board of Zoning Adjustment shall submit the application to the Architect of the Capitol for review and report.

5202.4 The Board of Zoning Adjustment may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impacts identified in the consideration of the application.

5203 SPECIAL EXCEPTION CRITERIA FOR RA-6 (NAVAL OBSERVATORY) ZONE

5203.1 In the RA-6 zone, in addition to any conditions relative to the specific special exception, any special exception application shall be subject to consideration by the Board of Zoning Adjustment as to whether the proposed development is:

(a) Compatible with the present and proposed development of the neighborhood;

(b) Consistent with the goals and mandates of the United States Congress in Title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub.L. No. 94-59, 89 Stat. 288); and

(c) In accordance with the plan promulgated under the Act.

5203.2 Upon receipt of the application, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment along with reviews in writing of all relevant District departments and agencies including the Departments of Transportation, Housing and Community Development, and, if a historic district or historic landmark is involved, the Historic Preservation Office.

5203.3 Upon receipt of the application, the Board of Zoning Adjustment shall submit the application to the National Capital Planning Commission for review and report.

5203.4 The Board of Zoning Adjustment may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impacts identified in the consideration of the application.

5204 SPECIAL EXCEPTION CRITERIA ALLEY LOTS

5204.1 The Board of Zoning Adjustment may approve as a special exception a reduction in the minimum yard requirements of an alley lot in an RA zone may be approved as a special exception pursuant to Subtitle X, Chapter 9.

5205 SPECIAL EXCEPTION FROM PENTHOUSE PROVISIONS

5205.1 The Board of Zoning Adjustment may grant special exception relief from the penthouse requirements of this subtitle pursuant to the provisions of Subtitle C §§ 1504.1 and 1504.2.

TITLE 11 – ZONING

SUBTITLE G MIXED USE (MU) ZONES

TITLE 11 – ZONING G-1

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CHAPTER 1 INTRODUCTION TO MIXED-USE (MU) ZONES

100 GENERAL PROVISIONS

100.1 The Mixed-Use (MU) zones provide for mixed-use developments that permit a broad range of commercial, institutional, and multiple dwelling unit residential development at varying densities.

100.2 The MU zones are designed to provide facilities for housing, shopping, and business needs, including residential, office, service, and employment centers.

100.3 In addition to the purpose statements of individual chapters, the purposes of the MU zones are to:

(a) Provide for the orderly development and use of land and structures in the MU zones, characterized by a mixture of land uses;

(b) Provide for a varied mix of residential, employment, retail, service, and other related uses at appropriate densities and scale throughout the city;

(c) Reflect a variety of building types, including, but not limited to, shop-front buildings which may include a vertical mixture of residential and non-residential uses, buildings made up entirely of residential uses, and buildings made up entirely of non-residential uses;

(d) Encourage safe and efficient conditions for pedestrian and motor vehicle movement;

(e) Ensure that infill development is compatible with the prevailing development pattern within the zone and surrounding areas;

(f) Preserve and enhance existing commercial nodes and surroundings by providing an appropriate scale of development and range of shopping and service opportunities; and

(g) Ensure that buildings and developments around fixed rail stations, transit hubs, and streetcar lines are oriented to support active use of public transportation and safety of public spaces.

100.4 In the MU zones, buildings may be entirely residential, or may be a mixture of non-residential and residential uses.

101 DEVELOPMENT STANDARDS

101.1 The bulk of structures in the MU zones shall be controlled through the combined general development standards of this subtitle, the zone-specific development standards of this subtitle, and the requirements and standards of Subtitle C.

101.2 The development standards are intended to:

(a) Control the bulk or volume of structures, including height, floor area ratio (FAR), and lot occupancy;

(b) Control the location of building bulk in relation to adjacent lots and streets, by regulating rear yards, side yards, and the relationship of buildings to street lot lines;

(c) Regulate the mixture of uses; and

(d) Ensure the environmental performance of development.

101.3 The development standards may include allowances for the provision of affordable housing consistent with the Inclusionary Zoning provisions of Subtitle C, Chapter 10 and will be so indicated by the letters "IZ" in the development standards table.

101.4 The bulk of public buildings and structures in the MU zones shall be controlled through the development standards specified in Subtitle G, Chapter 10 and the regulations of this chapter.

101.5 Development standards may be varied or waived by the Board of Zoning Adjustment as a variance or, when permitted in this title, as a special exception. Additional zone-specific special exception criterion, if applicable, shall be considered by the Board and are referenced in this subtitle.

101.6 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this Subtitle can be found in Subtitle C.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

102 USE PERMISSIONS

102.1 Use permissions for the MU zones are as specified in Subtitle U, Chapter 5.

103 PARKING

103.1 Parking requirements for the MU zones are as specified in Subtitle C, Chapters 7 and 8.

104 INCLUSIONARY ZONING

104.1 Inclusionary zoning requirements for the MU zones are as specified in Subtitle C, Chapter 10.

CHAPTER 2 GENERAL DEVELOPMENT STANDARDS FOR MU ZONES

200 GENERAL PROVISIONS

200.1 The provisions of this chapter apply to all MU zones except as may be modified or otherwise provided for in a specific zone.

200.2 When modified or otherwise provided for in the development standards for a specific zone, the modification or zone-specific standard shall apply.

201 DENSITY – FLOOR AREA RATIO (FAR)

201.1 For a building or structure in existence with a valid Certificate of Occupancy prior to November 17, 1978, or for which an application for a building permit was filed prior to November 17, 1978, a conversion of non-residential GFA to residential GFA, even if in excess of otherwise permitted FAR, shall be permitted.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

202 COURTS

202.1 A court is not required in an MU zone, but where it is provided, it shall have the following minimum dimensions:

TABLE G § 202.1: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than 3 units	4 in./ft. of height of court; 10 ft. minimum	4 in./ft. of height of court; 15 ft. minimum	Twice the square of the required width of court dimension; 350 sq. ft. minimum
Non-Residential and Lodging	2.5 in./ft. of height of court; 6 ft. minimum	2.5 in./ft. of height of court; 12 ft. minimum	Twice the square of the required width of court dimension; 250 sq. ft. minimum

203 PENTHOUSES

203.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

CHAPTER 3 MIXED-USE ZONES - MU-1 AND MU-2

300 PURPOSE AND INTENT

300.1 The purposes of the MU-1 and MU-2 zones are to:

(a) Act as a buffer between adjoining non-residential and residential areas, and to ensure that new development is compatible in use, scale, and design with the transitional function of this zone;

(b) Preserve and protect areas adjacent to non-residential uses or zones that contain a mix of row houses, apartments, offices, and institutions at a medium to high density, including buildings of historic and architectural merit; and

(c) Permit new residential development at a higher density than new office or institutional developments.

300.2 The MU-1 zone is intended to permit moderate-density areas predominantly developed with residential buildings but also permitting non-residential buildings.

300.3 The MU-2 zone is intended to permit medium-density areas predominantly developed with residential buildings but also permitting non-residential buildings.

301 DEVELOPMENT STANDARDS

301.1 The development standards of this chapter modify the general development standards in Subtitle G, Chapter 2.

302 DENSITY – FLOOR AREA RATIO (FAR)

302.1 The maximum permitted FAR of buildings in the MU-1 and MU-2 zones shall be as set forth in the following table:

TABLE G § 302.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum Permitted FAR	
	Total Permitted	Maximum Non-Residential Use
MU-1	4.0	2.5
	4.8 (IZ)	
MU-2	6.0	3.5
	7.2 (IZ)	

303 HEIGHT

303.1 The maximum permitted building height, not including the penthouse, in the MU-1 and MU-2 zones shall be as set forth in the following table:

TABLE G § 303.1: MAXIMUM PERMITTED BUILDING HEIGHT

Zone	Maximum Height (Feet)
MU-1	65
	70 (IZ)
MU-2	90

303.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be as set forth in the following table:

TABLE G § 303.2: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

ZONE	Maximum Penthouse Height	Maximum Penthouse Stories
MU-1	12 ft., except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
MU-2	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space

304 LOT OCCUPANCY

304.1 The maximum permitted lot occupancy for residential use in the MU-1 and MU-2 zones shall be as set forth in the following table:

TABLE G § 304.1: MAXIMUM PERMITTED LOT OCCUPANCY FOR RESIDENTIAL USE

Zone	Maximum Lot Occupancy (Percentage)
MU-1	80
MU-2	80
	90 (IZ)

305 REAR YARD

305.1 A minimum rear yard of twelve feet (12 ft.) shall be required above a horizontal plane as described in Subtitle G § 305.2 in the MU-1 and MU-2 zones.

305.2 A horizontal plane may be established at twenty-five feet (25 ft.) above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yards.

305.3 A rear yard is not required to be provided below a horizontal plane as described in Subtitle G § 305.2.

305.4 Where a lot abuts an alley, the rear yard may be measured from the center line of the alley to the rear wall of the building or other structure.

305.5 Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

306 SIDE YARD

306.1 No side yard is required for a building or structure other than a detached single dwelling unit or semi-detached single dwelling unit; however, if a side yard is provided, it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building, but no less than five feet (5 ft.).

306.2 A minimum side yard of eight feet (8 ft.) shall be provided for a detached or semi-detached dwelling.

306.3 Any portion of a building set back from the side lot line shall be considered a side yard and not a court.

307 GREEN AREA RATIO (GAR)

307.1 The minimum required GAR for the MU-1 and MU-2 zones shall be 0.3.

308 SPECIAL EXCEPTION

308.1 Exceptions to the development standards of this chapter shall be permitted as a special exception, if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle G, Chapter 12.

CHAPTER 4 MIXED-USE ZONES – MU-3, MU-4, MU-5, MU-6, MU-7, MU-8, MU-9, AND MU-10

400 PURPOSE AND INTENT

400.1 The MU-3 through MU-10 zones are mixed-use zones that are intended to be applied throughout the city consistent with the density designation of the Comprehensive Plan. A zone may be applied to more than one (1) density designation.

400.2 The MU-3 zone is intended to:

(a) Permit low-density mixed-use development; and

(b) Provide convenient retail and personal service establishments for the day-to-day needs of a local neighborhood, as well as residential and limited community facilities with a minimum impact upon surrounding residential development.

400.3 The MU-4 zone is intended to:

(a) Permit moderate-density mixed-use development;

(b) Provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core; and

(c) Be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops, and include office employment centers, shopping centers, and moderate bulk mixed-use centers.

400.4 The MU-5 zones are intended to:

(a) Permit medium-density, compact mixed-use development with an emphasis on residential use;

(b) Provide facilities for shopping and business needs, housing, and mixed-uses for large segments of the District of Columbia outside of the central core; and

(c) Be located on arterial streets, in uptown and regional centers, and at rapid transit stops.

400.5 The MU-6 zone is intended to:

(a) Permit medium- to high-density mixed-use development with a focus on residential use; and

(b) Provide facilities for shopping and business needs, housing, and mixed-uses for large segments of the District of Columbia outside of the central core.

400.6 The MU-7 zone is intended to:

(a) Permit medium-density mixed-use development; and

(b) Be located on arterial streets, in uptown and regional centers, and at rapid transit stops.

400.7 The MU-8 zone is intended to:

(a) Permit medium-density mixed-use development with a focus on employment;

(b) Be located in uptown locations, where a large component of development will be office-retail and other non-residential uses; and

(c) Be located in or near the Central Employment Area, on arterial streets, in uptown and regional centers, and at rapid transit stops.

400.8 The MU-9 zone is intended to:

(a) Permit high-density mixed-use development including office, retail, and housing, with a focus on employment; and

(b) Be located in or near the Central Employment Area, on arterial streets, in uptown and regional centers, and at rapid transit stops.

400.9 The MU-10 zone is intended to:

(a) Permit medium- to high-density mixed-use development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions;

(b) Be applied to areas where a mixture of uses and building densities is intended to carry out elements of the Comprehensive Plan, small area plans, or framework plans, including goals in employment, population, transportation, housing, public facilities, and environmental quality;

(c) Require a level of public space at the ground level; and

(d) Allow residential and non-residential bulk to be apportioned between two (2) or more lots in the same square.

401 DEVELOPMENT STANDARDS

401.1 The development standards of this chapter modify the general development standards in Subtitle G, Chapter 2.

402 DENSITY – FLOOR AREA RATIO (FAR)

402.1 The maximum permitted FAR in the MU-3 through MU-10 zones shall be as set forth in the following table:

TABLE G § 402.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR	
	Total Permitted	Maximum Non-Residential Use
MU-3	1.0	1.0
	1.2 (IZ)	
MU-4	2.5	1.5
	3.0 (IZ)	
MU-5-A MU-5-B	3.5	1.5
	4.2 (IZ)	
MU-6	6.0	2.0
	7.2 (IZ)	
MU-7	4.0	2.5
	4.8 (IZ)	
MU-8	5.0	4.0
	6.0 (IZ)	
MU-9	6.5	6.5
	7.8 (IZ)	
MU-10	6.0	3.0
	7.2 (IZ)	

402.2 In the MU-4 and MU-5 zones, an existing building on a lot with an area ten thousand square feet (10,000 sq. ft.) or less, may have a maximum density of 2.0 FAR for non-residential uses, provided the uses are located in the ground story and the story directly above the ground story. For new construction, any additional use is limited to 0.5 FAR.

402.3 In the MU-10 zone, combined lot development is permitted for the purposes of allocating gross floor area devoted to residential and non-residential uses in accordance with the provisions of Subtitle G § 100.4. Both lots shall be located within the same square, and shall be zoned MU-10.

403 HEIGHT

403.1 The maximum permitted building height and number of stories, not including the penthouse, in the MU-3 through MU-10 zones shall be as set forth in the following table:

TABLE G § 303.1: MAXIMUM PERMITTED HEIGHT/STORIES

Zone	Maximum Height (Feet)	Maximum Stories
MU-3	40	3
MU-4	50	N/A
MU-5-A	65	N/A
	70 (IZ)	
MU-5-B	75	N/A
MU-6	90	N/A
MU-7	65	N/A
MU-8	70	N/A
MU-9	90	N/A
MU-10	90	N/A
	100 (IZ)	

403.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be as set forth in the following table:

TABLE G § 403.2: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

Zone	Maximum Penthouse Height	Maximum Penthouse Stories
MU-3 MU-4	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
MU-5-A MU-7	12 ft., except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
MU-5B MU-8	20 ft.	1; Second story permitted for penthouse mechanical space
MU-6 MU-9 MU-10	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space

404 LOT OCCUPANCY

404.1 The maximum permitted lot occupancy for residential use in the MU-3 through MU-10 zones shall be as set forth in the following table:

TABLE G § 404.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy for Residential Use
MU-3	60%
	60% (IZ)
MU-4	60%
	75% (IZ)
MU-5-A MU-5-B	80%
	80% (IZ)
MU-6	80%
	90% (IZ)
MU-7	75%
	80% (IZ)
MU-8	N/A
MU-9	N/A
MU-10	75%
	N/A (IZ)

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10a620 (August 19, 2016).

405 REAR YARD

405.1 A minimum rear yard of twenty feet (20 ft.) shall be provided in the MU-3 zone.

405.2 A minimum rear yard of fifteen feet (15 ft.) shall be provided in the MU-4, MU-5, and MU-6 zones.

405.3 A minimum rear yard of two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than twelve feet (12 ft.) shall be provided in the MU-7, MU-8, MU-9, and MU-10 zones.

405.4 In the MU-3 through MU-9 zones, a horizontal plane may be established at twenty-five feet (25 ft.) above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yards.

405.5 In the MU-3 through MU-7 zones, rear yards shall be measured as follows:

(a) Where a lot abuts an alley:

(1) For that portion of the structure below a horizontal plane described in Subtitle G § 405.4 from the center line of the alley to the rear wall of the portion; and

(2) For that portion of the structure above the horizontal plane described in Subtitle G § 405.4, from the rear lot line to the rear wall of that portion immediately above the plane; and

(b) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

405.6 In the MU-8 and MU-9 zones, rear yard shall be established subject to the following conditions:

(a) A rear yard is not required to be provided below a horizontal plane as described in Subtitle G § 405.4;

(b) Where a lot abuts an alley, the rear yard may be measured from the center line of the alley to the rear wall of the building or other structure; and

(c) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

405.7 In the MU-10 zone, rear yards are required only for residential uses and shall be established subject to the following conditions:

(a) A rear yard shall be established no lower than the first level of residential use;

(b) Where a lot abuts an alley, the rear yard may be measured from the center line of the alley to the rear wall of the building or other structure; and

(c) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

406 SIDE YARD

406.1 No side yard is required for a building or structure other than a detached single dwelling unit or semi-detached single dwelling unit; however, if a side yard is provided it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building but no less than five feet (5 ft.).

406.2 A minimum side yard of eight feet (8 ft.) shall be provided for a detached single dwelling unit or semi-detached single dwelling unit.

406.3 Any portion of a building set back from the side lot line shall be considered a side yard and not a court.

407 GREEN AREA RATIO (GAR)

407.1 The minimum required GAR for the MU-3 through MU-6 zones shall be 0.3.

407.2 The minimum required GAR for the MU-7 and MU-8 zones shall be 0.25.

407.3 The minimum required GAR for the MU-9 and MU-10 zones shall be 0.20.

408 PLAZA

408.1 In the MU-10 zone, a plaza comprising eight percent (8%) of the lot area shall be provided for development on a lot of greater than ten thousand square feet (10,000 sq. ft.), in accordance with the provisions of Subtitle C, Chapter 17.

408.2 Where preferred use space is required under this chapter and provided, the requirement to provide plaza space shall not apply.

409 SPECIAL EXCEPTION

409.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle G, Chapter 12.

410 COMBINED LOT

410.1 The following combined lot development provision shall apply to the MU-10 zone only:

(a) The allowable residential and non-residential bulk of a MU-10 zone may be apportioned between two (2) or more lots in the same square, regardless of the limits on floor area; provided, that the aggregate residential and non-residential floor area may not exceed the zone limits;

(b) A covenant running with the land and applicable to all properties involved in the apportionment shall be executed by all of the owners of the properties and the District of Columbia government prior to the issuance of any building permits. The covenant shall be for the purpose of insuring that the aggregate residential and non-residential floor area does not exceed the limits applicable to residential and non-residential uses; and

(c) For the purposes of this section, the term "residential purposes" shall include dwellings, flats, multiple dwellings, rooming and boarding houses, community-based residential facilities, inns, and guest room areas and service areas within hotels.

CHAPTER 5 MIXED-USE ZONES – MU-11, MU-12, MU-13, AND MU-14

500 PURPOSE AND INTENT

500.1 The MU-11 through MU-14 zones are mixed-use zones that are intended to be applied generally in the vicinity of the waterfront.

500.2 The MU-11 zone is intended to:

(a) Permit open space, park, and low-density and low-height waterfront-oriented retail and arts uses; and

(b) Be applied in undeveloped waterfront areas.

500.3 The MU-12 zone is intended to permit moderate-density mixed-use development generally in the vicinity of the waterfront.

500.4 The MU-13 zone is intended to permit medium-density mixed-use development generally in the vicinity of the waterfront.

500.5 The MU-14 zone is intended to permit high-density mixed-use development generally in the vicinity of the waterfront.

501 DEVELOPMENT STANDARDS

501.1 The development standards of this chapter modify the general development standards in Subtitle G, Chapter 2.

502 DENSITY – FLOOR AREA RATIO (FAR)

502.1 The maximum permitted FAR of buildings in the MU-11 through MU-14 zones shall be as set forth in the following table:

TABLE G § 502.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR	
	Total Permitted	Maximum Non-Residential Use
MU-11	0.5	0.5
MU-12	2.5	1.0
	3.0 (IZ)	
MU-13	4.0	2.0
	4.8 (IZ)	
MU-14	6.0	5.0
	7.2 (IZ)	

502.2 In the MU-11 through MU-14 zones, the guestroom areas and service areas within lodging uses may be charged against the "Total Permitted" floor area ratio.

502.3 In the MU-11 zone, the density on a lot used exclusively for recreational use, marina, yacht club, or boathouse buildings and structures shall not exceed 0.75 FAR; and for the purposes of this subsection, FAR shall be the gross floor area of all buildings and structures located on land and any associated permanent structure located on, in, or over water, other than a floating home, divided by the total area of the lot.

503 HEIGHT

503.1 The maximum permitted building height, not including the penthouse, in the MU-11 through MU-14 zones shall be as set forth in the following table:

TABLE G § 503.1: MAXIMUM PERMITTED BUILDING HEIGHT

Zone	Maximum Height (Feet)
MU-11	40
MU-12	45
	50 (IZ)
MU-13	60
	80 (IZ)
MU-14	90
	100 (IZ)

503.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be as set forth in the following table:

TABLE G § 503.2: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

Zone	Maximum Penthouse Height	Maximum Penthouse Stories
MU-11 MU-12	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
MU-13	12 ft. except 18 ft. 6in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
MU-14	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space

503.3 In the MU-11 zone, the following conditions apply:

(a) A building or structure located on, in, or over the water; or a watercraft, including a floating home shall have a maximum height of twenty-five feet (25 ft.). For the purposes of this subsection, the maximum height shall

be measured from the mean high water level along the shore directly in front of the building, structure, or watercraft to the highest point of the building or structure, not including sailboat masts; and

(b) Penthouses less than ten feet (10 ft.) in height above a roof or parapet wall of a structure on Kingman Island shall not be subject to the requirements of Subtitle G, Chapters 11 and 12 of this subtitle when the top of the penthouse is below maximum building height prescribed for the MU-11 zone.

504 LOT OCCUPANCY

504.1 The maximum permitted lot occupancy for residential use of buildings in the MU-11 through MU-14 zones shall be as set forth in the following table:

TABLE G § 504.1: MAXIMUM PERMITTED LOT OCCPUANCY

Zone	Maximum Lot Occupancy for Residential Use (Percentage)
MU-11	25
MU-12	80
	80 (IZ)
MU-13	75
	75 (IZ)
MU-14	75
	80 (IZ)

504.2 Within the MU-11 zone, no building or portion of a building, including accessory buildings, shall occupy greater than twenty-five percent (25%) of the lot upon which it is located, provided that:

(a) The lot occupancy on a lot used exclusively for a recreational use, marina, yacht club, or boathouse buildings and structures shall not exceed fifty percent (50%); and

(b) For the purposes of this section, the lot occupancy shall be the total area occupied by all buildings and structures located on land and by any associated permanent structure located on, in, or over water, other than a floating home, divided by the total area of the lot.

505 REAR YARD

505.1 Rear yard are required only for residential uses and shall be established no lower than the first level of residential use.

505.2 A minimum rear yard of twelve feet (12 ft.) shall be provided in the MU-11, MU-12, MU-13, and MU-14 zones.

505.3 Where a lot abuts an alley, the rear yard may be measured from the center line of the alley to the rear wall of the building or other structure.

505.4 Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

505.5 The Board of Zoning Adjustment may waive rear yard requirements pursuant to Subtitle X, Chapter 9 and Subtitle G, Chapter 12.

506 SIDE YARD

506.1 In the MU-11 zone, a side yard for any building or structure located in whole or in part on land, shall be no less than twelve feet (12 ft.).

506.2 No side yard shall be required in the MU-12, MU-13, and MU-14 zones. If a side yard is provided, its minimum width shall be at least eight (8) feet.

506.3 Any portion of a building set back from the side lot line shall be considered a side yard and not a court.

507 GREEN AREA RATIO (GAR)

507.1 The minimum required GAR for the MU-12 through MU-14 zones shall be 0.3.

508 WATERFRONT SETBACK

508.1 A waterfront setback shall be provided in accordance with the provisions of Subtitle C, Chapter 11.

508.2 In the MU-11 zone, a waterfront setback of not less than one hundred feet (100 ft.) to any building or structure shall be provided.

509 SPECIAL EXCEPTION

509.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to a demonstration by the applicant that conditions relating to the application for a special exception are not in conflict with the criteria of Subtitle C, Chapter 11.

CHAPTER 6 DUPONT CIRCLE MIXED-USE ZONES – MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21, AND MU-22

600 PURPOSE AND INTENT

600.1 The purposes of the Dupont Circle Mixed-Use zones (MU-15 through MU-22) are to:

(a) Require a scale of development consistent with the nature and character of the Dupont Circle area in height and bulk and ensure a general compatibility in the scale of new buildings with older, low-scale buildings;

(b) Enhance the residential character of the area by maintaining existing residential uses and controlling the scale, location, and density of commercial and residential development;

(c) Protect the integrity of "contributing buildings", as that term is defined by the Historic Landmark and Historic District Protection Act of 1978;

(d) Preserve areas planned as open gardens and backyards and protect the light, air, and privacy that they provide;

(e) Enhance the streetscape by maintaining the public space in front of buildings as landscaped green spaces and limited curb cuts on Connecticut Avenue; and

(f) Encourage greater use of public transportation and the free circulation of vehicles through public streets and alleys.

600.2 The MU-15 zone is intended to permit moderate-density areas predominantly developed with residential buildings.

600.3 The MU-16 zone is intended to permit medium-density areas predominantly developed with residential buildings.

600.4 The MU-17 zone is intended to permit moderate-density mixed-use development.

600.5 The MU-18 zone is intended to permit medium-density, compact mixed-use development with an emphasis on residential development.

600.6 The MU-19 zone is intended to permit medium-density mixed-use development with a focus on residential use.

600.7 The MU-20 zone is intended to permit medium-density mixed-use development with a focus on employment.

600.8 The MU-21 zone is intended to permit high-density mixed-use development with a focus on employment.

600.9 The MU-22 zone is intended to permit medium- to high-density mixed-use development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions.

600.10 No driveway providing access to required parking spaces or loading berths shall be permitted along Connecticut Avenue from N Street, N.W., to Florida Avenue, N.W.

601 DEVELOPMENT STANDARDS

601.1 The development standards of this chapter modify the general development standards in Subtitle G, Chapter 2.

601.2 The matter-of-right building height, floor area ratio, and penthouse height limits shall serve as the maximum permitted building height, floor area ratio, and penthouse height for a planned unit development.

602 DENSITY – FLOOR AREA RATIO (FAR)

602.1 The maximum permitted FAR of buildings in the MU-15 through MU-22 zones shall be as set forth in the following table:

TABLE G § 602.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR	
	Total Permitted	Maximum Non-Residential Use
MU-15	4.0	2.5
	4.8 (IZ)	
MU-16	6.0	3.5
	7.2 (IZ)	
MU-17	2.5	1.5
	3.0 (IZ)	
MU-18	3.5	1.5
	4.2 (IZ)	
MU-19	6.0	2.0
	7.2 (IZ)	
MU-20	5.0	4.0
	6.0 (IZ)	
MU-21	6.5	6.5
	7.8 (IZ)	
MU-22	6.0	3.0
	7.2 (IZ)	

602.2 In the MU-17 and MU-18 zones, an existing building on a lot with an area ten thousand square feet (10,000 sq. ft.) or less, may have a maximum density of 2.0

FAR for non-residential uses, provided the uses are located in the ground story and the story directly above the ground story.

602.3 In the MU-22 zone, combined lot development is permitted for the purposes of allocating gross floor area devoted to residential and non-residential uses in accordance with the provisions of Subtitle G § 100.4. Both lots shall be located within the same square, and shall be zoned MU-22.

603 HEIGHT

603.1 The maximum permitted building height, not including the penthouse, in the MU-15 through MU-22 zones shall be as set forth in the following table:

TABLE G § 603.1: MAXIMUM PERMITTED BUILDING HEIGHT

Zone	Maximum Height (Feet)
MU-15	65
	70 (IZ)
MU-16	90
MU-17	50
MU-18	65
	70 (IZ)
MU-19	90
MU-20	70
MU-21	90
MU-22	90
	100 (IZ)

603.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be as set forth in the following table:

TABLE G § 603.2: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

Zone	Maximum Penthouse Height	Maximum Penthouse Stories
MU-17,	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
MU-15 MU-18	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
MU-20	20 ft.	1; Second story permitted for penthouse mechanical space
MU-16 MU-19 MU-21 MU-22	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space

604 LOT OCCUPANCY

604.1 The maximum permitted lot occupancy for residential use shall be one hundred percent (100%) in the MU-15 through MU-22 zones.

605 REAR YARD

605.1 A minimum rear yard of twelve feet (12 ft.) shall be provided in the MU-15 and MU-16 zones.

605.2 A minimum rear yard of fifteen feet (15 ft.) shall be provided in the MU-17, MU-18, and MU-19 zones.

605.3 A minimum rear yard of two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than twelve feet (12 ft.) shall be yard in the MU-20, MU-21, and MU-22 zones.

605.4 In the MU-15 and MU-16 zones, rear yards shall be measured as follows:

(a) Where a lot abuts an alley, the rear yard may be measured from the center line of the alley to the rear wall of the building or other structure; and

(b) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

605.5 In the MU-17 through MU-21 zones, a horizontal plane may be established at twenty-five feet (25 ft.) above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yard.

605.6 In the MU-17 through MU-19 zones, rear yards shall be measured as follows:

(a) Where a lot abuts an alley:

(1) For that portion of the structure below a horizontal plane described in Subtitle G § 605.5 from the center line of the alley to the rear wall of the portion; and

(2) For that portion of the structure above the horizontal plane described in Subtitle G § 605.5, from the rear lot line to the rear wall of that portion immediately above the plane; and

(b) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

605.7 In the MU-20 and MU-21 zones, rear yards shall be established subject to the following conditions:

(a) A rear yard is not required to be provided below a horizontal plane as described in Subtitle G § 605.5;

(b) Where a lot abuts an alley, the rear yard may be measured from the center line of the alley to the rear wall of the building or other structure; and

(c) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

605.8 In the MU-22 zone, rear yards are required only for residential uses and shall be established subject to the following conditions:

(a) A rear yard shall be established no lower than the first level of residential use;

(b) Where a lot abuts an alley, the rear yard may be measured from the center line of the alley to the rear wall of the building or other structure; and

(c) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

606 SIDE YARD

606.1 In the MU-15, MU-16, and MU-22 zones, no side yard is required; however, if a side yard is provided it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building, but no less than five feet (5 ft.).

606.2 In the MU-17, MU-18, MU-19, MU-20, and MU-21 zones, no side yard is required for a building or structure other than a detached single dwelling unit or semi-detached single dwelling unit; however, if a side yard is provided it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building but no less than five feet (5 ft.).

606.3 A side yard for a detached single dwelling unit or semi-detached single dwelling unit shall be a minimum of eight feet (8 ft.).

606.4 Any portion of a building set back from the side lot line shall be considered a side yard and not a court.

607 GREEN AREA RATIO (GAR)

607.1 The minimum required GAR for the MU-15 through MU-19 zones shall be 0.3.

607.2 The minimum required GAR for the MU-20 and MU-21 zones shall be 0.2.

607.3 The minimum required GAR for the MU-22 zone shall be 0.2.

608 PLAZA

608.1 Within the MU-22 zone, a plaza comprising eight percent (8%) of the lot area shall be provided for development on a lot of greater than ten thousand square feet (10,000 sq. ft.), in accordance with the provisions of Subtitle C, Chapter 17.

608.2 Where preferred use space is required under this chapter and provided, the requirement to provide plaza space shall not apply.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

609 SPECIAL EXCEPTION

609.1 The special exception criteria of Subtitle G, Chapter 12 shall apply to all MU-13 through MU-22 zones.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

CHAPTER 7 CAPITOL INTEREST AND CAPITOL HILL COMMERCIAL MIXED USE ZONES – MU-23, MU-24, MU-25, AND MU-26

700 PURPOSE AND INTENT

700.1 The purposes of the Capitol Interest Mixed-Use zones (MU-23, MU-24, and MU-26) are to:

(a) Promote and protect the public health, safety, and general welfare of the U.S. Capitol precinct and the area adjacent to this jurisdiction, in a manner consistent with the goals and mandates of the United States Congress in Title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288), and in accordance with the plan submitted to the Congress pursuant to the Act;

(b) Respect the importance of and provide sufficient controls for the area adjacent to the U.S. Capitol;

(c) Provide particular controls adjacent to properties having a well-recognized general public interest; and

(d) Restrict some of the permitted uses to reduce the possibility of harming the site, building, or district to be protected.

700.2 The MU-23 zone is intended to permit medium-density areas predominantly developed with residential buildings consistent with the purposes of Subtitle G § 700.1.

700.3 The MU-24 zone is intended to permit moderate-density mixed-use development consistent with the purposes of Subtitle G § 700.1.

700.4 The Capitol Hill Commercial Mixed-Use zones include the MU-25 and MU-26 zones and are intended to:

(a) Encourage the adaptive use and reuse of existing buildings, many of which are located in the Capitol Hill Historic District, particularly with respect to the portions of the buildings that exceed the commercial floor area ratio permitted in the underlying zone districts;

(b) Concentrate non-residential uses in commercial zone districts in certain areas of Capitol Hill, thereby enhancing and protecting the residential character of the areas surrounding the commercial zone districts and

relieving pressure to use properties zoned residential for commercial uses; and

(c) Provide appropriate incentives for new infill construction that is compatible with the Capitol Hill Historic District and its predominance of low-scale row house structures.

700.5 The MU-25 zone is intended to permit moderate-density mixed-use development consistent with the purpose of Subtitle G § 700.4.

700.6 The MU-26 zone is intended to permit moderate-density mixed-use development consistent with the purposes of Subtitle G §§ 700.1 and 700.4.

701 DEVELOPMENT STANDARDS

701.1 The development standards of this chapter modify the general development standards in Subtitle G, Chapter 2.

702 DENSITY – FLOOR AREA RATIO (FAR)

702.1 The maximum permitted FAR of buildings in the MU-23 through MU-26 zones shall be as set forth in the following table:

TABLE G § 702.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR	
	Total Permitted	Maximum Non-Residential Use
MU-23	1.8	N/A
	2.16 (IZ)	
MU-24	1.8	1.5
	2.16 (IZ)	
MU-25	2.5	3.0
	3.0 (IZ)	
MU-26	1.8	2.5
	2.16 (IZ)	

702.2 In the MU-24 zone, an existing building on a lot with an area ten thousand square feet (10,000 sq. ft.) or less may have a maximum density of 1.8 FAR for non-residential uses, provided the uses are located in the ground story and the story directly above the ground story.

702.3 In the MU-25 and MU-26 zones, an existing building on a lot with an area ten thousand square feet (10,000 sq. ft.) or less may have a maximum density of 2.0 FAR for non-residential uses, provided the uses are located in the ground story and the story directly above the ground story.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

703 HEIGHT

703.1 The maximum building height, not including the penthouse, in the MU-23, MU-24, and MU-26 zones shall be forty feet (40 ft.) and three (3) stories.

703.2 The maximum height in the MU-25 zone shall be fifty feet (50 ft.).

703.3 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse or flat in Subtitle C § 1500.4, shall be ten feet (10 ft.), and the maximum number of stories within the penthouse shall be one (1) in the MU-23, MU-24, and MU-26 zones.

703.4 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.), except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories within the penthouse shall be one (1), except a second story shall be permitted for penthouse mechanical space in the MU-25 zone.

704 LOT OCCUPANCY

704.1 The maximum lot occupancy for residential use shall be eighty percent (80%) in the MU-23 zone and seventy-five percent (75%) in the MU-24, MU-25, and MU-26 zones.

705 REAR YARD

705.1 A minimum rear yard of twelve feet (12 ft.) shall be provided in the MU-23 zone.

705.2 In the MU-23 zone, rear yards shall be measured as follows:

(a) Where a lot abuts an alley, the rear yard may be measured from the center line of the alley to the rear wall of the building or other structure; and

(b) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

705.3 A minimum rear yard of fifteen feet (15 ft.) shall be provided in the MU-24 through MU-26 zones.

705.4 In the MU-24 through MU-26 zones, a horizontal plane may be established at twenty-five feet (25 ft.) above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yards.

705.5 In the MU-24 through MU-26 zones, rear yards shall be measured as follows:

(a) Where a lot abuts an alley:

(1) For that portion of the structure below a horizontal plane described in Subtitle G § 705.4 from the center line of the alley to the rear wall of the portion; and

(2) For that portion of the structure above the horizontal plane described in Subtitle G § 705.4, from the rear lot line to the rear wall of that portion immediately above the plane; and

(b) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

706 SIDE YARD

706.1 No side yard is required for a principal building other than a detached single dwelling unit or semi-detached single dwelling unit; however, if a side yard is provided, it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building, but no less than five feet (5 ft.).

706.2 A side yard for a detached single dwelling unit or semi-detached single dwelling unit shall be a minimum of eight feet (8 ft.).

706.3 Any portion of a building set back from the side lot line shall be considered a side yard and not a court.

707 GREEN AREA RATIO (GAR)

707.1 The minimum required GAR for the MU-23 through MU-26 zones shall be 0.3.

708 SPECIAL EXCEPTION

708.1 The special exception criteria of Subtitle G, Chapter 12 shall apply to all MU-23 through MU-26 zones.

708.2 In addition to the special exception criteria of Subtitle G, Chapter 12, and Subtitle X, any special exception application in the MU-23, MU-24, or MU-26 zone shall be subject to the following conditions in addition to any conditions relative to the specific special exception:

(a) Compatible with the present and proposed development of the neighborhood;

(b) Consistent with the goals and mandates of the United States Congress in Title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288); and

(c) In accordance with the plan promulgated under the Act.

708.3 Upon receipt of the application, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing of all relevant District departments and agencies, including the Departments of Transportation, Housing and Community Development, and, if a historic district or historic landmark is involved, the Historic Preservation Office.

708.4 Upon receipt of the application, the Board of Zoning Adjustment shall submit the application to the Architect of the Capitol for review and report.

708.5 The Board of Zoning Adjustment may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impacts identified in the consideration of the application.

CHAPTER 8 NAVAL OBSERVATORY MIXED-USE ZONE – MU-27

800 PURPOSE AND INTENT

800.1 The purposes of the Naval Observatory Mixed-Use zone (MU-27) are to:

(a) Permit moderate-density mixed-use development;

(b) Promote the public health, safety, and general welfare on land adjacent to or in close proximity to the highly sensitive and historically important Naval Observatory, in keeping with the goals and policies of the Federal and District elements of the Comprehensive Plan and the adopted Master Plan for that facility;

(c) Ensure that public land within the zone shall be used in a manner consistent with the historic or ceremonial importance and special mission of the Naval Observatory;

(d) Reflect the importance of the Naval Observatory to the District of Columbia and the Nation;

(e) Reduce or eliminate any possible harm or restrictions on the mission of the Federal establishment within the zone; and

(f) Provide additional controls on private land, in order to protect Federal interest concerns, including the critical scientific mission performed at the Naval Observatory and the security needs of the Vice President's residence.

800.2 The MU-27 zone is intended to permit moderate-density mixed-use development.

801 DEVELOPMENT STANDARDS

801.1 The development standards of this chapter modify the general development standards in Subtitle G, Chapter 2.

801.2 The provisions of Subtitle X, Chapter 3 shall not operate to permit a planned unit development in the MU-27 zone to exceed either the limits of Subtitle G § 802.2 or the area, bulk, and yard standards that apply as a matter of right in the MU-27 zone.

802 DENSITY – FLOOR AREA RATIO (FAR)

802.1 The maximum permitted FAR in the MU-27 zone shall be 2.5 FAR with a maximum density of 1.5 FAR for non-residential use.

802.2 In the MU-27 zone, an existing building on a lot with an area ten thousand square feet (10,000 sq. ft.) or less may have a maximum density of 2.0 FAR for non-residential uses, provided the uses are located in the ground story and the story directly above the ground story.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

803 HEIGHT

803.1 The maximum permitted building height, not including the penthouse, in the MU-27 zone shall be forty feet (40 ft.), measured as follows:

(a) The height of a building shall be the vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest point of the roof or parapet; and

(b) The curb elevation opposite the middle of the front of the building shall be determined as the average elevation of the lot from its front line to its rear lot line.

803.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories within the penthouse shall be one (1).

803.3 A penthouse permitted by this section shall contain no form of habitable space, other than ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop deck, terrace, or recreation space.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

804 LOT OCCUPANCY

804.1 The maximum permitted lot occupancy for residential use in the MU-27 zone shall be sixty percent (60%).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

805 REAR YARD

805.1 A minimum rear yard of fifteen feet (15 ft.) shall be provided in the MU-27 zone.

805.2 A horizontal plane may be established at twenty-five feet (25 ft.) above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yards.

805.3 Rear yards shall be measured as follows:

(a) Where a lot abuts an alley:

(1) For that portion of the structure below a horizontal plane described in Subtitle G § 805.2 from the center line of the alley to the rear wall of the portion; and

(2) For that portion of the structure above the horizontal plane described in Subtitle G § 805.2, from the rear lot line to the rear wall of that portion immediately above the plane; and

(b) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

806 SIDE YARD

806.1 No side yard is required for a principal building other than a detached single dwelling unit or semi-detached single dwelling unit; however, if a side yard is provided it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building but no less than five feet (5 ft.).

806.2 A minimum side yard of eight feet (8 ft.) shall be provided for a detached single dwelling unit or semi-detached single dwelling unit.

806.3 Any portion of a building set back from the side lot line shall be considered a side yard and not a court.

807 GREEN AREA RATIO (GAR)

807.1 The minimum required GAR for the MU-27 zone shall be 0.3.

808 SPECIAL EXCEPTION

808.1 The special exception criteria of Subtitle G, Chapter 12 shall apply to the MU-27 zone.

CHAPTER 9 FORT TOTTEN MIXED USE ZONES – MU-28 AND MU-29

900 PURPOSE AND INTENT

900.1 The purposes of the Fort Totten Mixed-Use zones (MU-28 and MU-29) are to:

(a) Encourage future residential and commercial development while enabling existing industries to remain in the District; and

(b) Protect surrounding residential areas from the adverse impacts of existing industrial support uses by means of the buffering standards.

900.2 The MU-28 zone is intended to permit medium-density mixed-use development with a focus on employment.

900.3 The MU-29 zone is intended to permit medium- to high-density development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions.

901 DEVELOPMENT STANDARDS

901.1 The development standards of this chapter modify the general development standards in Subtitle G, Chapter 2.

902 DENSITY – FLOOR AREA RATIO (FAR)

902.1 The maximum permitted FAR of buildings in the MU-28 and MU-29 zones shall be as set forth in the following table:

TABLE G § 902.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR	
	Total Permitted	Maximum Non-Residential Use
MU-28	4.0	2.5
	4.8 (IZ)	
MU-29	5.0	3.0
	6.0 (IZ)	

902.2 Density may be increased in the MU-28 and MU-29 zones in an existing building on a lot with an area ten thousand square feet (10,000 sq. ft.) or less, and it may have a maximum density of 2.0 FAR for non-residential uses, provided the uses are located in the ground story and the story directly above the ground story.

902.3 In the MU-29 zone, combined lot development is permitted for the purposes of allocating gross floor area devoted to residential and non-residential uses in

accordance with the provisions of Subtitle G § 100.4. Both lots shall be located within the same square and shall be zoned MU-29.

903 HEIGHT

903.1 The maximum building height, not including the penthouse, in the MU-28 and MU-29 zones shall be as set forth in the following table:

TABLE G § 903.1: MAXIMUM PERMITTED BUILDING HEIGHT

Zone	Maximum Height (Feet)
MU-28	65
	65 (IZ)
MU-29	80
	90 (IZ)

903.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be as set forth in the following table:

TABLE G § 903.2: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

Zone	Maximum Penthouse Height	Maximum Penthouse Stories
MU-28	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
MU-29	A penthouse shall be included within the maximum permitted building height	1

903.3 Buildings proposed to have a height in excess of sixty-five feet (65 ft.) shall provide special architectural features, roof parapet detailing, and design consideration of roof top and penthouse structures to ensure that the views and vistas from the historic fortification of Fort Totten are not degraded or obstructed.

903.4 The Office of Planning shall review and provide a report with recommendation to the Zoning Administrator prior to the issuance of a building permit.

904 LOT OCCUPANCY

904.1 The maximum permitted lot occupancy for residential use in the MU-28 and MU-29 zones shall be as set forth in the following table:

TABLE G § 904.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy for Residential Use (Percentage)
MU-28	75
	80 (IZ)
MU-29	75
	75 (IZ)

905 REAR YARD

905.1 A minimum rear yard of two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than twelve feet (12 ft.) shall be provided in the MU-28 and MU-29 zones.

905.2 In the MU-28 zone, a horizontal plane may be established at twenty-five feet (25 ft.) above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yards.

905.3 In the MU-28 zone, rear yards shall be measured as follows:

(a) Where a lot abuts an alley:

(1) For that portion of the structure below a horizontal plane described in Subtitle G § 905.2 from the center line of the alley to the rear wall of the portion; and

(2) For that portion of the structure above the horizontal plane described in Subtitle G § 905.2, from the rear lot line to the rear wall of that portion immediately above the plane; and

(b) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

905.4 In the MU-29 zone, rear yards are required only for residential uses and shall be established subject to the following conditions:

(a) A rear yard shall be established no lower than the first level of residential use;

(b) Where a lot abuts an alley, the rear yard may be measured from the center line of the alley to the rear wall of the building or other structure; and

(c) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

906 SIDE YARD

906.1 No side yard is required for a principal building; however, if a side yard is provided it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building but no less than five feet (5 ft.).

906.2 Any portion of a building set back from the side lot line shall be considered a side yard and not a court.

907 GREEN AREA RATIO (GAR)

907.1 The minimum required GAR shall be 0.25 for the MU-28 zone and 0.2 for the MU-29 zone.

908 SETBACKS AND SCREENING

908.1 A business or industrial use that expands consistent with the development standards of this chapter shall comply with the setback and screening standards.

908.2 If the lot line of the lot being developed coincides with the lot line of a property in a residential zone, or is separated only by a street or alley from a property in a residential zone, where the property is not owned by a business or industrial user, and the property is not being used for residential purposes, the following standards shall apply:

(a) A setback of twenty-five feet (25 ft.) shall be provided on the portion of the lot adjacent to the residential zone; provided, that the following requirements are met:

(1) Where there is a street or an alley between the residential lot and the lot subject to the MU-28, PDR-6, or PDR-7 zones, the required setback shall be fifteen feet (15 ft.) measured from the lot line;

(2) The yard shall not be used for parking, loading, or accessory uses;

(3) The yard shall be landscaped with evergreen trees in a healthy growing condition which shall be a minimum of six feet to eight feet (6 ft. to 8 ft.) in height when planted; and

(4) Planting locations and soil preparation techniques shall be shown on a landscape plan submitted with the building permit application to the Department of Consumer and Regulatory Affairs for review and approval according to standards maintained by the Department's Soil Erosion and Storm Management Branch, which may require replacement of heavy or compacted soils with top soil and drainage mechanisms as necessary; and

(b) A fence or wall shall be erected as a buffer between the residential lot(s) not owned by a business or industrial user that abut a lot affected by this zone; provided, that the fence or wall shall be no less than eight feet (8 ft.) and no more than ten feet (10 ft.) in height, and shall be either a solid, wood, board-on-board fence, or a brick or stone wall.

909 SPECIAL EXCEPTION

909.1 The special exception criteria of Subtitle G, Chapter 12 shall apply to all the MU-28 and MU-29 zones.

CHAPTER 10 DEVELOPMENT STANDARDS FOR PUBLIC EDUCATION BUILDINGS AND STRUCTURES, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES FOR MU ZONES

1000 GENERAL PROVISIONS

1000.1 Public education buildings and structures, public recreation and community centers, or public libraries in the MU zones shall be permitted subject to the conditions of Subtitle C, Chapter 16.

1000.2 Development standards not otherwise addressed by Subtitle C, Chapter 16 shall be those development standards for the zone in which the buildings or structures is proposed.

CHAPTER 11 ALLEY LOT REGULATIONS FOR MU ZONES

1100 GENERAL PROVISIONS

1100.1 All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia, as a record lot.

1100.2 New alley lots may be created as provided in Subtitle C, Chapter 3.

1101 DEVELOPMENT STANDARDS

1101.1 The development standards in Subtitle G §§ 1102 through 1106 shall apply to buildings on alley lots in MU zones.

1102 HEIGHT

1102.1 The maximum height and stories of the building in MU-6, MU-8, MU-9, MU-10, MU-19, MU-20, MU-21, MU-22, and MU-29 zones shall be thirty feet (30 ft.) and three (3) stories, including the penthouse.

1102.2 The maximum height and stories of the building in all other MU zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.

1103 REAR YARD

1103.1 A minimum rear yard of five feet (5 ft.) shall be provided from any lot line of all abutting non-alley lots.

1104 SIDE YARD

1104.1 A minimum side yard of five feet (5 ft.) shall be provided from any lot line of all abutting non-alley lots.

1105 ALLEY CENTERLINE SETBACK

1105.1 A required twelve foot (12 ft.) setback from the centerline of all alleys to which the alley lot abuts shall be provided.

1106 GREEN AREA RATIO (GAR)

1106.1 The minimum required GAR shall be as required by the zone.

CHAPTER 12 RELIEF FROM DEVELOPMENT STANDARDS

1200 GENERAL PROVISIONS

1200.1 The Board of Zoning Adjustment may grant special exception relief to the development standards of this subtitle subject to any applicable conditions of this chapter.

1200.2 As set forth in this chapter, specific conditions or criteria may be applicable in the consideration of relief and shall be considered in combination with the conditions of Subtitle X, Chapter 9.

1200.3 Requested relief that does not comply with the applicable conditions or limitations for a special exception as set out in this subtitle shall be processed as a variance.

1200.4 Relief may be granted as a special exception by the Board of Zoning Adjustment to the development standards and regulations of this subtitle where, in the judgment of the Board, the special exception:

(a) Will be in harmony with the general purpose and intent of the MU zone, the Zoning Regulations, and Zoning Maps;

(b) Will not tend to affect adversely the use of neighboring property, in accordance with the Zoning Regulations and Zoning Maps; and

(c) Is subject in each case to any applicable conditions specified in this chapter.

1201 SPECIAL EXCEPTION CRITERIA REAR YARD RELIEF

1201.1 The Board of Zoning Adjustment may grant relief to the rear yard requirements of this subtitle as a special exception pursuant to Subtitle X, provided:

(a) No apartment window shall be located within forty feet (40 ft.) directly in front of another building;

(b) No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen feet (18 ft.) in front of a blank wall;

(c) In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate yards;

(d) Provision shall be included for service functions, including parking and loading access and adequate loading areas; and

(e) Upon receiving an application to waive rear yard requirements in the subject zone, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing from all relevant District of Columbia departments and agencies, including the Department of Transportation, the District of Columbia Housing Authority and, if a historic district or historic landmark is involved, the Historic Preservation Office.

1202 SPECIAL EXCEPTION CRITERIA NAVAL OBSERVATORY ZONES (MU-27)

1202.1 In consideration of a special exception in the MU-27 zone, in addition to any other criteria of this title, the following conditions shall apply:

(a) The Board of Zoning Adjustment shall consider whether the proposed development is compatible with the:

(1) Present and proposed development within and adjacent to the MU-27 zone;

(2) Goals, objectives, and policies pertaining to Federal facilities, as found in the Comprehensive Plan and the Master Plans for the Federal facilities within the MU-27 zone; and

(3) Role, mission, and functions of the Federal facilities within the MU-27 zone, considering the effect that the proposed development would have on such facilities;

(b) Upon receipt of the application, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment along with reviews in writing from all relevant District departments and agencies including the Departments of Transportation, Housing and Community Development, and, if a historic district or historic landmark is involved, the Historic Preservation Office;

(c) Upon receipt of the application, the Board of Zoning Adjustment shall refer the application upon receipt to the National Capital Planning Commission for review and report; and

(d) The Board of Zoning Adjustment may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impacts identified in the consideration of the application.

TITLE 11 – ZONING

SUBTITLE H NEIGHBORHOOD MIXED USE (NC) ZONES

TITLE 11 – ZONING H-1

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CHAPTER 1 INTRODUCTION TO NEIGHBORHOOD MIXED-USE (NC) ZONES

100 GENERAL PROVISIONS

100.1 The Neighborhood Mixed-Use zones (NC-1 though NC-17) are designed to provide for stable mixed-use areas permitting a range of commercial and multiple dwelling unit residential development in defined neighborhood commercial areas.

100.2 In addition to the purpose statements of each individual chapter, the purposes of the NC zones are to:

(a) Provide for a varied mix of residential, employment, retail, service, and other related uses in the area;

(b) Encourage safe and efficient conditions for pedestrian and motor vehicle movement;

(c) Preserve and enhance neighborhood shopping areas, by providing the scale of development and range of uses that are appropriate for neighborhood shopping and services;

(d) Encourage a general compatibility in scale between new and older buildings;

(e) Encourage retention and establishment of a variety of retail, entertainment, and personal service establishments, predominantly in a continuous pattern at ground level, to meet the needs of the surrounding area's residents, workers, and visitors;

(f) Encourage a scale of development, a mixture of building uses, and other attributes, such as safe and efficient conditions for pedestrian and vehicular movement;

(g) Identify designated roadways within NC zones with limitations on driveways and curb cuts; and

(h) Identify designated use areas within NC zones within which use restriction shall apply to the ground floor.

101 DEVELOPMENT STANDARDS

101.1 The bulk of structures in the NC zones shall be controlled through the combined general development standards of this subtitle, the zone-specific development standards of this subtitle, and the requirements and standards of Subtitle C.

101.2 The development standards are intended to:

(a) Control the bulk or volume of structures, including height, floor area ratio (FAR), and lot occupancy;

(b) Control the location of building bulk in relation to adjacent lots and streets, by regulating rear yards and the relationship of buildings to street lot lines;

(c) Regulate the mixture of uses; and

(d) Ensure the environmental performance of development.

101.3 The bulk of public buildings and structures in the NC zones shall be controlled through the development standards specified in Subtitle H, Chapter 10.

101.4 Development standards may be varied or waived by the Board of Zoning Adjustment as a variance or, when permitted in this title, as a special exception. Additional zone specific special exception criteria, if applicable, shall be considered by the Board and are found at Subtitle H, Chapter 12.

101.5 Development standards followed by "IZ" represent standards available to projects subject to the provisions of Subtitle C, Chapter 10, Inclusionary Zoning.

101.6 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

102 PARKING

102.1 Parking requirements for the NC zones are as specified in Subtitle C, Chapters 7 and 8.

103 INCLUSIONARY ZONING

103.1 Inclusionary Zoning requirements for the NC zones are as specified in Subtitle C, Chapter 10.

104 USE PERMISSIONS

104.1 The use permissions for the NC zones are as set forth in Subtitle H, Chapter 11.

CHAPTER 2 GENERAL DEVELOPMENT STANDARDS

200 GENERAL PROVISIONS

200.1 The provisions of this chapter apply to all zones except as may be modified or otherwise provided for in a specific zone.

200.2 When modified or otherwise provided for in the development standards for a specific zone, the modification or zone specific standard shall apply.

201 DENSITY – FLOOR AREA RATIO (FAR)

201.1 The maximum permitted floor area ratio (FAR) in all NC zones may be used for residential purposes, unless specifically required otherwise in an NC zone. However, of the maximum permitted FAR, non-residential uses shall be limited to a maximum non-residential FAR as established in the development standards for each zone. The maximum permitted FAR is inclusive of the non-residential FAR.

201.2 The matter-of-right height, penthouse, and density limits shall serve as the guidelines for planned unit developments except if specifically stated otherwise.

201.3 The development standards for lodging uses shall be those for non-residential uses except as specifically stated in FAR.

201.4 For a building or structure in existence with a valid Certificate of Occupancy prior to November 17, 1978, or for which an application for a building permit was filed prior to November 17, 1978, a conversion of non-residential GFA to residential GFA, even if in excess of otherwise permitted FAR, shall be permitted, provided that requirements for ground floor designated uses of Subtitle U §1101 are provided.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

202 REAR YARD

202.1 Except in the NC-13 zone, rear yards as required in the NC zones may be measured according to the following rules:

(a) If the subject lot does not abut an alley, the rear yard shall be measured as follows:

(1) Measure a horizontal plane from the mean elevation of the rear lot-line, parallel to the rear lot line, into the lot, the distance of the required minimum yard identified in the development standards table corresponding to the NC zone; and

(2) From the furthest point from the rear lot-line along the horizontal plane identified in the previous paragraph, define a vertical plane up to the maximum height limit of the zone. This vertical plane will form the rear yard; and

(b) If the subject lot abuts an alley, the rear yard shall be measured as follows:

(1) Measure a horizontal plane twenty-five feet (25 ft.) above the mean elevation of the rear lot-line, parallel to the rear lot line, into the lot, the distance of the required minimum yard identified in the development standards table corresponding to the NC zone; and

(2) From the furthest point from the rear lot-line along the horizontal plane identified in the previous paragraph, measure a vertical plane up to the maximum height limit of the zone. This vertical plane will form the rear yard.

203 PENTHOUSES

203.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

204 MISCELLANEOUS

204.1 No driveway providing access from any designated roadway to required parking spaces or loading berths shall be permitted in an NC zone.

204.2 The development standards for buildings on alley lots in NC zones shall be as required by the zone.

CHAPTER 3 MACOMB-WISCONSIN NEIGHBORHOOD MIXED-USE ZONE — NC-1

300 PURPOSE AND INTENT

300.1 The purposes of the Macomb-Wisconsin Neighborhood mixed-use zone (NC-1) are to:

(a) Provide for public review of large developments to ensure that they are compatible with and enhance the primary neighborhood retail function of the area;

(b) Ensure new construction is compatible with and enhances the primary neighborhood retail function of the area; and

(c) Limit the scale and massing of new buildings and a mix of uses that is in general compatible in scale with existing buildings.

300.2 The NC-1 zone is intended to permit mixed-use development at a low density.

300.3 The NC-1 zone shall be mapped on the mixed-use area near and extending from the intersection of Macomb Street and Wisconsin Avenue, N.W., comprising those non-residentially zoned lots in Squares 1920 and 1920N.

300.4 The designated use area in the NC-1 zone shall include any lot that fronts on Wisconsin Avenue or Macomb or Newark Streets, N.W.

300.5 The designated roadway in the NC-1 zone shall be Wisconsin Avenue and Macomb Street, N.W.

301 DEVELOPMENT STANDARDS

301.1 The development standards in Subtitle H §§ 302 through 308 modify the general development standards in Subtitle H, Chapter 2.

302 DENSITY – FLOOR AREA RATIO (FAR) AND GROSS FLOOR AREA (GFA)

302.1 The maximum permitted FAR in the NC-1 zone shall be 1.0 (1.2 with IZ) with a maximum non-residential FAR of 1.0.

302.2 On a lot that has ten thousand square feet (10,000 sq. ft.) or more in land area, construction of a new building or enlargement of the gross floor area of an existing building by fifty percent (50%) or more shall be permitted, subject to review and approval as a special exception by the Board of Zoning Adjustment, pursuant to the standards and criteria in Subtitle X, Chapter 9.

303 HEIGHT

303.1 The maximum permitted building height, not including the penthouse, in the NC-1 zone shall be forty feet (40 ft.) and three (3) stories.

303.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C §1500.4, shall be twelve feet (12 ft.) except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories within the penthouse shall be one (1), except a second story shall be permitted for penthouse mechanical space.

304 LOT OCCUPANCY

304.1 The maximum permitted lot occupancy for a building or portion thereof devoted to residential use shall be sixty percent (60%). The maximum permitted lot occupancy for all other buildings or non-residential portions of a building shall be one hundred percent (100%).

305 REAR YARD

305.1 A minimum rear yard of twenty feet (20 ft.) shall be provided in the NC-1 zone.

306 SIDE YARD

306.1 No side yard is required for a building or structure in the NC-1 zone other than a detached or semi-detached dwelling; however, if a side yard is provided, it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building, but no less than six feet (6 ft.).

306.2 A minimum side yard of eight feet (8 ft.) shall be provided for a detached or semi-detached dwelling in the NC-1 zone.

307 COURT

307.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE H § 307.1: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than 3 units:	4 in./ft. of height of court; 10 ft. minimum	4 in./ft. of height of court; 15 ft. minimum	Twice the square of the required width of court dimension; 350 sq. ft. minimum

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum	3 in./ft. of height of court 12 ft. minimum	Twice the square of the required width of court dimension; 250 sq. ft. minimum

308 GREEN AREA RATIO (GAR)

308.1 The minimum required (GAR) for the NC-1 zone shall be 0.3.

CHAPTER 4 TAKOMA NEIGHBORHOOD MIXED-USE ZONE — NC-2

400 PURPOSE AND INTENT

400.1 The purposes of the Takoma Neighborhood Mixed-Use zone (NC-2) are to:

(a) Reserve sufficient open space to provide adequate light and air to encourage retail and service uses, and pedestrian circulation in the vicinity of the Takoma Metro station;

(b) Require a minimum clear floor-to-ceiling height on the ground floor sufficient to accommodate the needs of neighborhood-serving retail, service, and office uses;

(c) Allow and encourage residential development to help meet the need for housing, enhance safety, and provide sufficient resident population to support neighborhood-serving retail, service, and office uses;

(d) Permit mixed-use development at a moderate density;

(e) Encourage residential development to enhance safety and provide resident population to support neighborhood-serving commercial uses; and

(f) Limit the height of new buildings and encourage a scale of development and a mixture of building uses that is generally compatible in scale with existing buildings.

400.2 The NC-2 zone begins at the street right-of-way lines abutting the squares listed in Subtitle H § 300.2 and extends to a depth of one hundred feet (100 ft.).

400.3 The designated use area shall coincide with the boundaries of the NC-2 zone.

400.4 The designated roadways shall be portions of 4th Street, N.W., Blair Road, N.W., Carroll Street, N.W., and Cedar Street, N.W. to the intersection with Carroll Street, N.W., in the NC-2 zone.

401 DEVELOPMENT STANDARDS

401.1 The development standards in Subtitle H §§ 402 through 408 modify the general development standards in Subtitle H, Chapter 2.

402 DENSITY – FLOOR AREA RATIO (FAR)

402.1 The maximum FAR in the NC-2 zone shall be 2.5 (3.0 with IZ) with a maximum non-residential FAR of 1.5.

402.2 An existing building on a lot ten thousand square feet (10,000 sq. ft.) or less may exceed the maximum FAR standard for non-residential uses, provided the uses are located in the ground story and the story directly above the ground story.

403 HEIGHT

403.1 The maximum permitted building height, not including the penthouse, in the NC-2 zone shall be fifty feet (50 ft.) (fifty-five feet [55 ft.] with IZ).

403.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C §1500.4, shall be twelve feet (12 ft.) except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories within the penthouse shall be one (1), except a second story shall be permitted for penthouse mechanical space.

404 LOT OCCUPANCY

404.1 The maximum permitted lot occupancy for a building or portion thereof devoted to residential use shall be sixty percent (60%) (seventy-five percent [75%] with IZ). The maximum permitted lot occupancy for all other buildings or non-residential portions of a building shall be one hundred percent (100%).

405 REAR YARD

405.1 A minimum rear yard of fifteen feet (15 ft.) shall be provided in the NC-2 zone.

406 SIDE YARD

406.1 No side yard is required for a building or structure in the NC-2 zone other than a detached or semi-detached dwelling; however, if a side yard is provided, it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building, but no less than six feet (6 ft.).

406.2 A minimum side yard of eight feet (8 ft.) shall be provided for a detached or semi-detached dwelling in the NC-2 zone.

407 COURT

407.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE H § 407.1: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than 3 units:	4 in./ft. of height of court; 10 ft. minimum	4 in./ft. of height of court; 15 ft. minimum	Twice the square of the required width of court dimension; 350 sq. ft. minimum
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum	3 in./ft. of height of court 12 ft. minimum	Twice the square of the required width of court dimension; 250 sq. ft. minimum

408 GREEN AREA RATIO (GAR)

408.1 The minimum required GAR for the NC-2 zone shall be 0.3.

409 DESIGN REQUIREMENTS TAKOMA NEIGHBORHOOD MIXED-USE ZONE (NC-2)

409.1 The street wall of each new building fronting on Blair Road, N.W., Cedar Street, N.W., and Carroll Street, N.W., or any addition to an existing building frontage on any of these streets, shall setback for its entire height and frontage not less than thirteen feet (13 ft.), measured from the adjacent curb line.

409.2 Except as provided in Subtitle H § 409.4, the ground floor level of each new building or building addition shall have a minimum clear floor-to-ceiling height of fourteen feet (14 ft.).

409.3 Those portions of buildings with a minimum clear floor-to-ceiling height of fourteen feet (14 ft.) on the ground floor level shall be permitted a total building height of fifty-five feet (55 ft.).

409.4 Buildings occupying or constructed on lots along the Blair Road frontage of Square 3187 and Cedar Street frontage of Squares 3352 and 3353 within the NC-2 zone do not have to provide the designated retail and service establishments on the ground floor level required by Subtitle H § 1101.1, nor comply with the ground floor level floor-to-ceiling height requirement of Subtitle H § 409.2, if the ground floor level is devoted exclusively to residential uses.

409.5 If ground floor residential uses are established pursuant to Subtitle H § 409.4, no certificate of occupancy for a permitted non-residential use on the ground floor level may be issued, unless the ground floor level of the subject building complies with the floor-to-ceiling height requirement of Subtitle H § 409.2.

CHAPTER 5 CLEVELAND PARK NEIGHBORHOOD MIXED-USE — NC-3

500 PURPOSE AND INTENT

500.1 The purposes of the Cleveland Park Neighborhood Mixed-Use zone (NC-3) are to:

(a) Encourage compatibility of development with the purposes of the Historic Landmark and Historic District Protection Act of 1978;

(b) Limit the height of new buildings and encourage a scale of development and a mixture of building uses that is generally compatible in scale with existing buildings; and

(c) Provide for retention of existing housing within the Cleveland Park commercial area to help meet the need for affordable housing and to enhance pedestrian activity, safety, and consumer support for businesses in the commercial area.

500.2 The NC-3 zone is intended to permit mixed-use development at a moderate density.

500.3 The NC-3 zone shall be mapped to a compact geographic area surrounding the Cleveland Park Metrorail Station and within the Cleveland Park Historic District, comprising those non-residentially zoned lots in Squares 2218, 2219, 2222, 2068, 2069, and 2082.

500.4 The designated use area shall include any lot within the NC-3 zone that fronts on Connecticut Avenue or Macomb, Newark, Ordway, or Porter Streets.

500.5 The designated roadway in the NC-3 zone shall be Connecticut Avenue, N.W.

501 DEVELOPMENT STANDARDS

501.1 The development standards in Subtitle H §§ 502 through 507 modify the general development standards in Subtitle H, Chapter 2.

502 DENSITY – FLOOR AREA RATIO (FAR)

502.1 The maximum FAR in the NC-3 zone shall be 2.0 (2.4 with IZ) with a maximum non-residential FAR of 1.0.

503 HEIGHT

503.1 The maximum permitted building height, not including the penthouse, in the NC-3 zone shall be forty feet (40 ft.) (forty-five feet [45 ft.] with IZ).

503.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories within the penthouse shall be one (1), except a second story shall be permitted for penthouse mechanical space.

504 LOT OCCUPANCY

504.1 The maximum permitted lot occupancy for a building or portion thereof devoted to residential use shall be sixty percent (60%) (seventy-five percent [75%] with IZ). The maximum permitted lot occupancy for all other buildings or non-residential portions of a building shall be one hundred percent (100%).

505 REAR YARD

505.1 A minimum rear yard of fifteen feet (15 ft.) shall be provided in the NC-3 zone.

506 SIDE YARD

506.1 No side yard is required for a building or structure in the NC-3 zone other than a detached or semi-detached dwelling; however, if a side yard is provided it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building but no less than six feet (6 ft.).

506.2 A minimum side yard of eight feet (8 ft.) shall be provided for a detached or semi-detached dwelling in the NC-3 zone.

507 COURT

507.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE H § 507.1: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than 3 units:	4 in./ft. of height of court; 10 ft. minimum	4 in./ft. of height of court; 5 ft. minimum	Twice the square of the required width of court dimension; 350 sq. ft. minimum

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum	3 in./ft. of height of court 12 ft. minimum	Twice the square of the required width of court dimension; 250 sq. ft. minimum

508 GREEN AREA RATIO (GAR)

508.1 The minimum required GAR for the NC-3 zone shall be 0.3.

CHAPTER 6 WOODLEY PARK NEIGHBORHOOD MIXED-USE ZONES — NC-4 AND NC-5

600 PURPOSE AND INTENT

600.1 The purposes of the Woodley Park Neighborhood Mixed-Use zones (NC-4 and NC-5) are to:

(a) Limit the height of new buildings; and

(b) Encourage a scale of development and a mixture of building uses that are in general compatible in scale with existing buildings in the Woodley Park neighborhood.

600.2 The NC-4 zone is intended to permit mixed-use development at a moderate-density.

600.3 The NC-5 zone is intended to permit compact mixed-use development at a medium density with an emphasis on residential development.

600.4 The NC-4 and NC-5 zones shall be mapped to a compact geographic area comprising those non-residentially zoned lots in Squares 2202 and 2203 and in Square 2204.

600.5 The designated use area shall include any lot within the NC-4 and NC-5 zones that fronts on Connecticut Avenue, Calvert Street, or 24th Street, N.W. For the purposes of Subtitle H § 1101.3, the designated use areas of NC-4 and NC-5 shall be treated as a single use area.

600.6 The designated roadway in the NC-4 and NC-5 shall be Connecticut Avenue, N.W.

601 DEVELOPMENT STANDARDS

601.1 The development standards in Subtitle H §§ 602 through 608 modify the general development standards in Subtitle H, Chapter 2.

602 DENSITY – FLOOR AREA RATIO (FAR)

602.1 The maximum permitted FAR in the NC-4 and NC-5 zones shall be as set forth in the following table:

TABLE H § 602.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR	
	Total Permitted	Maximum Non-Residential Use
NC-4	2.5	1.0
	3.0 (IZ)	
NC-5	3.0	1.0
	3.6 (IZ)	

603 HEIGHT

603.1 The maximum permitted building height, not including the penthouse, in the NC-4 and NC-5 zones shall be as set forth in the following table:

TABLE H § 603.1: MAXIMUM PERMITTED BUILDING HEIGHT

Zone	Maximum Height (Feet)
NC-4	40
	50 (IZ)
NC-5	50
	55 (IZ)

603.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C §1500.4, shall be twelve feet (12 ft.) except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories within the penthouse shall be one (1), except a second story shall be permitted for penthouse mechanical space.

604 LOT OCCUPANCY

604.1 The maximum permitted lot occupancy in the NC-4 and NC-5 zones shall be as set forth in the following table:

TABLE G § 604.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy for a Building or Portion Thereof Devoted to Residential Use (Percentage)	Maximum Lot Occupancy All Other Buildings (Percentage)
NC-4	60	100
	75 (IZ)	
NC-5	80	100
	80 (IZ)	

605 REAR YARD

605.1 A minimum rear yard of fifteen feet (15 ft.) shall be provided in the NC-4 and NC-5 zones.

606 SIDEYARD

606.1 No side yard is required for a building or structure other than a detached or semi-detached dwelling; however, if a side yard is provided it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building but no less than six feet (6 ft.).

606.2 A minimum side yard of eight feet (8 ft.) shall be provided for a detached or semi-detached dwelling in the NC-4 and NC-5 zones.

607 COURT

607.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE H § 607.1: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than three units:	4 in./ft. of height of court; 10 ft. minimum	4 in./ft. of height of court; 15 ft. minimum	Twice the square of the required width of court dimension; 350 sq. ft. minimum
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum	3 in./ft. of height of court 12 ft. minimum	Twice the square of the required width of court dimension; 250 sq. ft. minimum

608 GREEN AREA RATIO (GAR)

608.1 The minimum required GAR for the NC-4 and NC-5 zones shall be 0.3.

CHAPTER 7 EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE — NC-6

700 PURPOSE AND INTENT

700.1 The purposes of the Eighth Street Southeast Neighborhood Mixed-Use zone (NC-6) are to:

(a) Encourage and allow new neighborhood-serving retail and service businesses and office development in close proximity to the Navy Yard, with emphasis on firms that will conduct business with the Navy, as well as neighborhood-serving retail and service businesses;

(b) Allow and encourage mixed-use development at a medium density, in the interest of securing economic development, while restricting building heights to a low level density to respect the historic scale of buildings and the entrance to the adjacent Navy Yard; and

(c) Provide for safe and efficient pedestrian movement by reducing conflicts between pedestrian and vehicular traffic, so as to improve access to retail.

700.2 The NC-6 zone shall be mapped to a compact geographic area along Eighth Street, S.E., near the entrance to the Navy Yard, comprising those non-residentially zoned properties in Squares 906, 907, 929, and 930.

700.3 The designated use area shall include any lot that fronts on Eighth Street, L Street, M Street, or Potomac Avenue, S.E. in the NC-6 zone.

700.4 The designated roadways shall be Eighth Street, M Street, and Potomac Avenue, S.E. and other businesses in the area

701 DEVELOPMENT STANDARDS

701.1 The development standards in Subtitle H §§ 702 through 708 modify the general development standards in Subtitle H, Chapter 2.

702 DENSITY – FLOOR AREA RATIO (FAR)

702.1 The maximum permitted FAR for permitted commercial and residential uses in the NC-6 zone shall be 3.0.

703 HEIGHT

703.1 The maximum permitted building height, not including the penthouse, in the NC-6 zone shall be forty-five feet (45 ft.).

703.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be twelve feet (12 ft.) except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories within the penthouse shall be one (1).

704 LOT OCCUPANCY

704.1 The maximum permitted lot occupancy for a building or portion thereof devoted to residential use in the NC-6 zone shall be seventy-five percent (75%). The maximum lot occupancy for all other buildings shall be one hundred percent (100%).

705 REAR YARD

705.1 A minimum rear yard of twelve feet (12 ft.) shall be provided in the NC-6 zone.

706 SIDE YARD

706.1 No side yard is required for a building or structure other than a detached or semi-detached dwelling; however, if a side yard is provided, it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building but no less than six feet (6 ft.).

706.2 A minimum side yard of eight feet (8 ft.) shall be provided for a detached or semi-detached dwelling in the NC-6 zone.

707 COURT

707.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE H § 707.1: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than 3 units:	4 in./ft. of height of court; 10 ft. minimum	4 in./ft. of height of court; 15 ft. minimum	Twice the square of the required width of court dimension; 350 sq. ft. minimum

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum	3 in./ft. of height of court 12 ft. minimum	Twice the square of the required width of court dimension; 250 sq. ft. minimum

708 GREEN AREA RATIO

708.1 The minimum required Green Area Ratio in the NC-6 zone shall be 0.25.

CHAPTER 8 GEORGIA AVENUE NEIGHBORHOOD MIXED-USE ZONES — NC-7 AND NC-8

800 PURPOSE AND INTENT

800.1 The purposes of the Georgia Avenue Neighborhood Mixed-Use zones (NC-7 and NC-8) are to:

(a) Implement the objectives of the Georgia Avenue - Petworth Metro Station Area and Corridor Plan, approved by the Council of the District of Columbia, effective July 20, 2006 (Res. 16-686);

(b) Implement the goals of the Great Streets Framework Plan for 7th Street - Georgia Avenue, published by the District Department of Transportation and dated 2006;

(c) Encourage additional residential uses along the Georgia Avenue corridor;

(d) Encourage improved commercial uses;

(e) Provide uniform building design standards;

(f) Set guidelines for development review through planned unit development (PUD) and special exception proceedings; and

(g) Encourage vertically mixed-uses (ground floor commercial and residential above) within a quarter mile of the Georgia Avenue - Petworth Metrorail Station along Georgia Avenue, from Park Road to Shepherd Street.

800.2 The NC-7 zone is intended to permit mixed-use development at a moderate density, including additional residential uses above improved commercial uses; and

800.3 The NC-8 zone is intended to permit mixed-use development at a medium density with a focus on employment, including additional residential uses above improved commercial uses.

800.4 The NC-7 and NC-8 zones apply to non-residential properties along both sides of Georgia Avenue, N.W., from the north side of the intersection of Georgia Avenue and Kenyon Street to the south side of the intersection of Georgia Avenue and Varnum Street.

800.5 The designated use area shall coincide with the boundaries of the NC-7 and NC-8 zones.

800.6 The designated roadway in the NC-7 and NC-8 zones shall be Georgia Avenue N.W.

801 DEVELOPMENT STANDARDS

801.1 The development standards in Subtitle H §§ 802 through 810 modify the general development standards in Subtitle H, Chapter 2.

802 DENSITY – FLOOR AREA RATIO (FAR)

802.1 The maximum permitted FAR in the NC-7 and NC-8 zones shall be as set forth in the following table:

TABLE H § 802.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR	
	Total Permitted	Maximum Non-Residential Use
NC-7	2.5	1.5
	3.0 (IZ)	
NC-8	4.0	2.5
	4.8 (IZ)	

802.2 A planned unit development (PUD) in the NC-7 and NC-8 zones shall be subject to the following provisions in addition to those of Subtitle X, Chapter 3:

(a) Any additional height and floor area above that permitted as a matter of right in the zone shall be for residential use only; and

(b) The minimum area included within the proposed PUD, including the area of public streets or alleys proposed to be closed, shall be a total of ten thousand square feet (10,000 sq. ft.).

803 HEIGHT

803.1 The maximum permitted building height, not including the penthouse, in the NC-7 and NC-8 zones shall be as set forth in the following table:

TABLE H § 803.1: MAXIMUM PERMITTED BUILDING HEIGHT

Zone	Maximum Height (Feet)
NC-7	50
	55 (IZ)
NC-8	65

803.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be as set forth in the following table:

TABLE H § 803.2: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

ZONE	Maximum Penthouse Height	Maximum Penthouse Stories
NC-7	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
NC-8	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space

804 LOT OCCUPANCY

804.1 The maximum permitted lot occupancy in the NC-7 and NC-8 zones shall be as set forth in the following table:

TABLE G § 804.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy for a Building or Portion Thereof Devoted to Residential Use (Percentage)	Maximum Lot Occupancy All Other Buildings (Percentage)
NC-7	70	100
	75 (IZ)	
NC-8	75	100
	80 (IZ)	

805 REAR YARD

805.1 A minimum rear yard of fifteen feet (15 ft.) shall be provided in the NC-7 zone.

805.2 A minimum rear yard of twelve feet (12 ft.) shall be provided in the NC-8 zone.

806 SIDE YARD

806.1 No side yard is required for a building or structure other than a detached or semi-detached dwelling; however, if a side yard is provided, it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building but no less than six feet (6 ft.).

806.2 A minimum side yard of eight feet (8 ft.) shall be provided for a detached or semi-detached dwelling in the NC-7 and NC-8 zones.

807 COURT

807.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE H § 807.1: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than 3 units:	4 in./ft. of height of court; 10 ft. minimum	4 in./ft. of height of court; 15 ft. minimum	Twice the square of the required width of court dimension; 350 sq. ft. minimum
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum	3 in./ft. of height of court 12 ft. minimum	Twice the square of the required width of court dimension; 250 sq. ft. minimum

808 GREEN AREA RATIO (GAR)

808.1 The minimum required GAR in the NC-7 zone shall be 0.3.

808.2 The minimum required GAR in the NC-8 zone shall be 0.25.

809 DESIGN REQUIREMENTS - GEORGIA AVENUE NEIGHBORHOOD MIXED-USE ZONES

809.1 The following design requirements shall apply to any lot in the NC-7 and NC-8 zones, other than a lot used for a public school:

(a) Buildings shall be designed and built so that not less than seventy-five percent (75%) of the street wall at the street level shall be constructed to the property line abutting the street right-of-way;

(b) Buildings on corner lots shall be constructed to all property lines abutting public streets;

(c) On-grade parking structures with frontage on Georgia Avenue, N.W. shall provide not less than sixty-five percent (65%) of the ground level frontage as commercial space;

(d) Each building on a lot that fronts on Georgia Avenue, N.W. shall devote not less than fifty percent (50%) of the surface area of the street wall at the ground level to entrances to commercial uses or to the building's main lobby, and to display windows having clear or clear/low emissivity glass. Decorative or architectural accents do not count toward the fifty percent (50%) requirement;

(e) Security grilles over windows or doors shall have no less than seventy percent (70%) transparency;

(f) The ground floor level of each building or building addition shall have a uniform minimum clear floor-to-ceiling height of fourteen feet (14 ft.);

(g) Buildings subject to Subtitle H § 809.1(f) shall be permitted an additional five feet (5 ft.) of building height over that permitted as a matter of right in the zone;

(h) Each commercial use with frontage on Georgia Avenue, N.W. shall have an individual public entrance directly accessible from the public sidewalk;

(i) Buildings shall be designed so as not to preclude an entrance every forty feet (40 ft.) on average for the linear frontage of the building, excluding vehicular entrances, but including entrances to ground floor uses and the main lobby; and

(j) Off-street surface parking shall be permitted in rear yards or below grade only.

810 SPECIAL EXCEPTION

810.1 Construction of a new building, or enlargement of the gross floor area of an existing building by fifty percent (50%) or more, on a lot that has twelve thousand square feet (12,000 sq. ft.) or more of land area is permitted only as a special exception if approved by the Board of Zoning Adjustment, in accordance with the standards specified in Subtitle X, Chapter 9 and Subtitle H § 1201.

CHAPTER 9 H STREET NORTHEAST NEIGHBORHOOD MIXED-USE ZONES — NC-9 THROUGH NC-17

900 PURPOSE AND INTENT

900.1 The purposes of the H Street Northeast Neighborhood Mixed-Use zones (NC-9 through NC-17) are to:

(a) Implement the policies and goals of the H Street NE Strategic Development Plan as approved by the Council of the District of Columbia, effective February 17, 2004 (Res. 15-460);

(b) Encourage the clustering of uses into unique destination sub-districts along the corridor, specifically a housing district from 2nd Street to 7th Street, N.E.; a neighborhood-serving retail shopping district from 7th Street to 12th Street, N.E.; and an arts and entertainment district from 12th Street to 15th Street, N.E.;

(c) Establish design guidelines for new and rehabilitated buildings that are consistent with the historic character and scale of the H Street, N.E. commercial corridor;

(d) Encourage new construction to preserve existing façades constructed before 1958; and

(e) Encourage residential uses, the reuse of existing buildings, and the redevelopment of those portions of Squares 1026, 1027, 1049, and 1050 within the NC-9 through NC-17 but not fronting H Street, N.E.

900.1 The H Street Northeast Neighborhood Mixed-Use zones include a housing, arts, and retail subarea, and are comprised of the NC-9, NC-10, NC-11, NC-12, NC-13, NC-14, NC-15, NC-16, and NC-17 zones.

900.2 The H Street Northeast Neighborhood Mixed-Use Housing sub-district is divided into the NC-9, NC-10, NC-11, NC-12, and NC-13 zones.

900.3 The H Street Northeast Neighborhood Mixed-Use Housing sub-district zones are intended to:

(a) Encourage residential uses along the H Street, N.E. corridor, particularly the provision of affordable units and reuse of upper floors;

(b) Establish design guidelines for new and rehabilitated buildings that are consistent with the historic character and scale of the H Street, N.E. commercial corridor; and

(c) Encourage the reuse of existing buildings along the corridor.

900.4 The NC-9 zone is intended to permit mixed-use development at a moderate-density with an emphasis on the provision of residential uses, particularly affordable units and reuse of upper floors.

900.5 The NC-10 zone is intended to permit mixed-use development at a moderate- to medium-density with an emphasis on the provision of residential uses, particularly affordable units and reuse of upper floors.

900.6 The NC-11, NC-12, and the NC-13 zones are intended to permit mixed-use development at a medium-density with an emphasis on the provision of residential uses, particularly affordable units and reuse of upper floors.

900.7 The H Street Northeast Neighborhood Mixed-Use Commercial Arts sub-district is divided into the NC-14 and NC-15 zones.

900.8 The H Street Northeast Neighborhood Mixed-Use Commercial Arts sub-district zones are intended to encourage arts and entertainment uses and a scale of development and a mixture of building uses that is generally compatible in scale with existing buildings.

900.9 The NC-14 zone is intended to permit mixed-use development at a moderate density with an emphasis on arts and arts-related uses.

900.10 The NC-15 zone is intended to permit mixed-use development at a medium density with an emphasis on employment and the provision of arts and arts-related uses.

900.11 The H Street Northeast Neighborhood Mixed-Use Retail sub-district is divided into the NC-16 and NC-17 zones.

900.12 The H Street Northeast Neighborhood Mixed-Use Retail sub-district zones are intended to encourage retail uses and a scale of development and a mixture of building uses that is generally compatible in scale with existing buildings.

900.13 The NC-16 zone is intended to permit mixed-use development at a moderate-density with an emphasis on the provision of retail uses.

900.14 The NC-17 zone is intended to permit mixed-use development at a moderate- to medium-density with an emphasis on the provision of retail uses.

900.15 The H Street Northeast Neighborhood Mixed-Use zones shall be mapped along the H Street, N.E. commercial corridor between the western side of 2nd Street, N.E. and the eastern side of 15th Street, N.E.

900.16 The designated street lot lines in the H Street Northeast Neighborhood Mixed-Use zones are:

(a) The street lot lines abutting H Street, N.E.; and

(b) The street lot lines abutting Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street, N.E., 14th Street, N.E., and 15th Street, N.E., applicable only if the building would have ground floor space occupied by one (1) or more service, retail, or office uses permitted by-right in the zone.

900.17 The designated roadway within the NC-9 through NC-17 zones shall be H Street, N.E.

901 DEVELOPMENT STANDARDS

901.1 The development standards in Subtitle H §§ 902 through 910 modify the general development standards in Subtitle H, Chapter 2.

902 DENSITY – FLOOR AREA RATIO (FAR)

902.1 The maximum permitted FAR in the NC-9 through NC-17 zones shall be as set forth in the following table:

TABLE H § 902.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum Residential FAR	Maximum FAR Other Uses	Maximum FAR Permitted
NC-9	2.5	0.5	2.5
			3.0 (IZ)
NC-10	3.5	0.5	3.5
			4.2 (IZ)
NC-11	6.0	0.5	6.0
			7.2 (IZ)
NC-12	4.0	0.5	4.0
			4.8 (IZ)
NC-13	5.0	0.5	5.0
			6.0 (IZ)
NC-14	2.5	1.0	2.5
			3.0 (IZ)
NC-15	4.0	1.0	4.0
			4.8 (IZ)
NC-16	2.5	1.5	2.5
			3.0 (IZ)
NC-17	3.5	1.5	3.5
			4.2 (IZ)

902.2 In the NC-9, NC-10, NC-11, NC-12, and NC-13 zones, new construction that preserves a building façade constructed before 1958 is permitted a maximum non-residential FAR of 1.5, provided that at least 1.0 FAR shall be occupied by uses in the following categories:

(a) Office, provided that the office use shall not be on the ground story;

(b) Retail;

(c) Service; or

(d) Eating and drinking establishments.

902.3 In the NC-14 through NC-17 zones, new construction that preserves an existing façade constructed before 1958 is entitled to an increase of 0.5 FAR to the maximum permitted non-residential density.

902.4 New construction that preserves an existing façade constructed before 1958 is permitted to use, for residential uses, an additional 0.5 FAR to the maximum permitted residential density.

902.5 On Square 776, a maximum non-residential density of 1.5 FAR shall be permitted in the event that a grocery store is constructed Square 776.

902.6 A planned unit development (PUD) in the H Street Northeast Neighborhood Mixed-Use zones shall be subject to the following provisions in addition to those of Subtitle X, Chapter 3:

(a) Any additional height and floor area above that permitted as a matter of right shall be used only for housing or the designated uses;

(b) The PUD process shall not be used to reduce requirements in this chapter for designated uses, specifically retail, service, entertainment, and arts uses;

(c) The minimum area included within the proposed PUD, including the area of public streets or alleys proposed to be closed, shall be ten thousand square feet (10,000 sq. ft.);

(d) Development properties subject to the set-aside requirements of Inclusionary Zoning (IZ) pursuant to Subtitle C, Chapter 10 may use the height and lot occupancy and bonus density as the basis of calculating the set-aside requirements for IZ units;

(e) The use of bonus FAR by a property also eligible to use the bonus provided for in Subtitle H § 902.2 shall be deemed to first utilize the bonus authorized for IZ units;

(f) Use of the bonus density authorized in Subtitle H § 902.2 shall not count towards the IZ set-aside requirements of Subtitle C, Chapter 10; and

(g) Bonus density achieved through Subtitle H § 902.2 that is in addition to the IZ requirements shall not count toward the IZ set-aside requirements of Subtitle C, Chapter 10.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

903 HEIGHT

903.1 The maximum permitted building height, not including the penthouse, in the NC-9 through NC-17 zones shall be as set forth in the following table:

TABLE H § 803.1: MAXIMUM PERMITTED BUILDING HEIGHT

Zone	Maximum Height (Feet)
NC-9, NC-14, and NC-16	50
NC-12 and NC-15	65
NC-10 and NC-17	65
	70 (IZ)
NC-13	70
NC-11	90
	100 (IZ)

903.2 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C § 1500.4, shall be as set forth in the following table:

TABLE H § 903.2: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

ZONE	Maximum Penthouse Height (Feet)	Maximum Penthouse Stories
NC-9 NC-14 NC-16	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
NC-10 NC-12 NC-15 NC-17	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
NC-13	20 ft.	1; Second story permitted for penthouse mechanical space
NC-11	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space

904 LOT OCCUPANCY

904.1 The maximum permitted lot occupancy in the NC-9 through NC-17 zones shall be as set forth in the following table:

TABLE H § 904.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy for a Building or Portion Thereof Devoted to Residential Use (Percentage)	Maximum Lot Occupancy All Other Buildings (Percentage)
NC-9, NC-14, and NC-16	70	100
	75 (IZ)	
NC-12 and NC-15	75	100
	80 (IZ)	
NC-10, NC-11, and NC-17	70	100
	80 (IZ)	
NC-13	100	100

904.2 For the purposes of Subtitle H § 904.1, "residential uses" include single dwelling units, flats, multiple dwelling unit developments, and rooming and boarding houses.

904.3 For the purposes of this chapter, the percentage of lot occupancy may be calculated on a horizontal plane located at the lowest level where residential uses begin.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

905 REAR YARD

905.1 A minimum rear yard in the NC-9 through NC-17 zones shall be as set forth in the following table:

TABLE H § 905.1: MINIMUM REQUIRED REAR YARD

Zone	Minimum Rear Yard (Feet)
NC-9, NC-10, NC-11, NC-14, NC-16, and NC-17	15
NC-12, NC-13 and NC-15	12

906 SIDE YARD

906.1 In the NC zones, no side yard is required for a building or structure other than a detached or semi-detached dwelling; however, if a side yard is provided it shall be at least two inches (2 in.) wide for each one foot (1 ft.) of height of building but no less than six feet (6 ft.).

906.2 A minimum side yard of eight feet (8 ft.) shall be provided for a detached or semi-detached dwelling.

907 COURT

907.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE H § 907.1: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than 3 units:	4 in./ft. of height of court; 10 ft. minimum	4 in./ft. of height of court; 15 ft. minimum	Twice the square of the required width of court dimension; 350 sq. ft. minimum
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum	3 in./ft. of height of court 12 ft. minimum	Twice the square of the required width of court dimension; 250 sq. ft. minimum

908 GREEN AREA RATIO (GAR)

908.1 The minimum required GAR shall be as set forth in the following table:

TABLE H § 908.1: MINIMUM REQUIRED GREEN AREA RATIO

Zone	Minimum Required GAR
NC-9, NC-10, NC-11, NC-14, NC-16, and NC-17	0.3
NC-12, NC-13 and NC-15	0.25

909 DESIGN REQUIREMENTS - H STREET NORTHEAST NEIGHBORHOOD MIXED USE ZONES

909.1 The following design requirements apply to all new construction for which a building permit is required in the H Street Northeast Neighborhood Mixed-Use zones:

(a) Buildings shall be designed and built so that not less than seventy-five percent (75%) of the streetwall(s) to a height of not less than twenty-five feet (25 ft.) shall be constructed to the property line abutting the street right-of-way. Buildings on corner lots shall be constructed to both property lines abutting public streets;

(b) New construction that preserves an existing façade constructed before 1958 is permitted to use, for residential uses, an additional 0.5 FAR above

the total density permitted in the underlying zone district for residential uses;

(c) Parking structures with frontage on H Street, N.E., Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street, N.E., 14th Street N.E., or 15th Street N.E. shall provide not less than sixty-five percent (65%) of the ground level frontage as commercial space;

(d) Each new building on a lot that fronts on H Street N.E., Florida Avenue, N.E., Maryland Avenue N.E., 13th Street, N.E., 14th Street N.E., or 15th Street N.E. shall devote not less than fifty percent (50%) of the surface area of the streetwall(s) at the ground level of each building to display windows having clear or clear/low-emissivity glass, except for decorative or architectural accent, and to entrances to commercial uses or to the building;

(e) Security grilles shall have no less than seventy percent (70%) transparency;

(f) Each commercial use with frontage on H Street N.E., Florida Avenue N.E., Maryland Avenue N.E., 13th Street N.E., 14th Street N.E., or 15th Street N.E. shall have an individual public entrance directly accessible from the public sidewalk. Multiple dwellings unit developments shall have at least one (1) primary entrance on H Street directly accessible from the sidewalk;

(g) Buildings shall be designed so as not to preclude an entrance every forty feet (40 ft.), on average, for the linear frontage of the building, excluding vehicular entrances, but including entrances to ground floor uses and the main lobby;

(h) The ground floor level of each new building or building addition shall have a uniform minimum clear floor-to-ceiling height of fourteen feet (14 ft.) if the building:

(1) Fronts H Street N.E.; or

(2) Fronts Florida Avenue N.E., Maryland Avenue N.E., 13th Street N.E., 14th Street N.E., or 15th Street N.E., and would have ground floor space occupied by one (1) or more service, retail, or office uses permitted as a matter-of-right in the underlying zone;

(i) Buildings subject to Subtitle H § 909.1(h) shall be permitted an additional five feet (5 ft.) of building height over that permitted in the zone;

(j) Projection signs shall have a minimum clearance of eight feet (8 ft.) above a sidewalk and fourteen feet (14 ft.) above a driveway, project no more than three feet, six inches (3 ft., 6 in.) from the face of the building, and

end a minimum of one foot (1 ft.) behind the curbline or extension of the curbline;

(k) Façade panel signs shall not be placed so as to interrupt windows or doors and shall project no more than twelve inches (12 in.) from the face of the building; and

(l) Roof signs are prohibited.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

910 SPECIAL EXCEPTION

910.1 Construction of a new building, or enlargement of the gross floor area of an existing building by fifty percent (50%) or more, on a lot that has six thousand square feet (6,000 sq. ft.) or more of land area is permitted only as a special exception if approved by the Board of Zoning Adjustment, in accordance with the standards specified in Subtitle X, Chapter 9 and Subtitle H § 1202.

CHAPTER 10 DEVELOPMENT STANDARDS FOR PUBLIC EDUCATION BUILDINGS AND STRUCTURES, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES FOR NC ZONES

1000 DEVELOPMENT STANDARDS

1000.1 Public education buildings and structures, public recreation and community centers, or public libraries in the NC zones shall be permitted subject to the conditions of Subtitle C, Chapter 13.

1000.2 Development standards not otherwise addressed by Subtitle C, Chapter 13 shall be those development standards for the zone in which the buildings or structures is proposed.

CHAPTER 11 USE PERMISSIONS FOR NC ZONES

1100 GENERAL USE PERMISSIONS FOR NC ZONES

1100.1 This chapter contains use permissions, conditions, and special exceptions in the NC-1 through NC-17 zones.

1100.2 Uses are permitted as a matter of right, as a matter of right with conditions, or as a special exception.

1100.3 A condition on a matter-of-right use may limit a use category to one (1) or more specific uses, modify the characteristic(s) of a use, or limit a use to specific zone.

1100.4 Uses are permitted as either principal or accessory uses unless specifically permitted as only a principal or accessory use.

1100.5 "Other Accessory Uses" shall be those that are customarily incidental and subordinate to the principal uses permitted in this chapter.

1100.6 Designated uses, as described by this chapter, shall be provided pursuant to the requirements of Subtitle H §1101. All other uses shall be provided pursuant to the requirements of this chapter.

1100.7 Antennas in NC zones shall be controlled by Subtitle C, Chapter 13.

1100.8 Use groups for the NC zones are as follows:

TABLE H § 1100.8: NC-USE GROUPS:

NC-Use Group A	NC-Use Group B	NC-Use Group C
NC-1	NC-2, NC-3, NC-4, NC-7, NC-9, NC-10, NC-11, NC-14, NC-16, NC-17	NC-5, NC-6, NC-8, NC-12, NC-13, NC-15

1101 DESIGNATED AND RESTRICTED USES

1101.1 Any building that occupies or is constructed on a lot in a designated use area within an NC zone shall provide designated retail and service establishments on the ground level according to the requirements of this chapter and any additional requirements of the particular zone.

1101.2 The NC zone designated uses, for the purposes of this subtitle, are those permitted in the following use groups subject to any conditions of this section:

(a) Animal care;

(b) Arts, design, and creation;

(c) Eating and drinking establishments;

(d) Entertainment and performing arts;

(e) Financial and general services; and

(f) Retail.

1101.3 The designated uses shall occupy no less than fifty percent (50%) of the gross floor area of the ground floor level of the building within a designated use area, subject to the following requirements:

(a) No more than twenty percent (20%) of the ground floor level area shall be financial services, travel agencies, or other ticket offices;

(b) Except in the NC-6 and NC-9 through NC-17 zones, eating and drinking establishments, and fast food establishments where permitted, shall be subject to the following limitations:

(1) These uses shall occupy no more than twenty-five percent (25%) of the linear street frontage within a particular NC zone, as measured along the lots in the designated use area in the particular district; and

(2) Except for fast food establishments, eating and drinking establishments may occupy the full ground floor requirements of Subtitle H § 1101.3; provided, that they shall remain subject to the linear street frontage requirement of Subtitle H § 1101.3(b)(1);

(c) In the NC-6 zone, eating and drinking establishments shall occupy no more than fifty percent (50%) of the linear street frontage as measured along the lots that face the designated roadway of which no more than one-half (0.5) of the 50% of the linear street frontage shall be occupied by fast food establishments and prepared food shops;

(d) In those parts of the affected building or lot other than as delineated in this section, the matter-of right use provisions of the zone shall apply; and

(e) For the purposes of this section the designated use areas of NC-4 and NC-5 shall be treated as a single zone.

1101.4 The following conditions shall apply to the matter-of-right designated uses in a designated use area in the specified NC zones:

(a) In the NC-1 zone, entertainment and performing arts shall not be considered a designated use;

(b) In the NC-2, NC-9, NC-10, NC-11, NC-12, and NC-13 zones, residential uses may also be considered designated uses;

(c) In the NC-3 zone, no dwelling unit or rooming unit in existence as of October 1, 1987, shall be converted to any nonresidential use or to a transient use such as hotel or inn; provided, that this restriction shall not apply to the ground floor of the building; that is, that floor that is nearest in grade elevation to the sidewalk;

(d) In the NC-7 and NC-8 zones, liquor stores and pawn shops shall not be permitted;

(e) In the NC-12 and NC-13 zones, catering establishments and bakeries may also be considered designated uses;

(f) In the NC-14 and NC-15 zones, designated uses shall be limited to uses within the arts, design and creation, and the eating and drinking use categories; and

(g) In all NC zones, animal care as a matter-of-right designated use shall be limited to:

(1) An establishment used by a licensed veterinarian for the practice of veterinary medicine subject to the following:

(A) No more than fifty percent (50%) of the gross floor area of the veterinary office may be devoted to the boarding of animals;

(B) The veterinary office shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;

(C) The veterinary office shall not abut an existing residential use or a residential zone;

(D) External yards or other external facilities for the keeping of animals shall not be permitted; and

(E) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence shall be permitted as accessory uses; and

(2) An animal grooming business provided there are no boarding facilities, and no external yards or other external facilities for the keeping of animals.

1101.5 No drive-through or drive-in operation shall be permitted in any NC zone as a principal or accessory use.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

1102 USES IN NC ZONES

1102.1 Uses in those parts of a building or lot in an NC zone that are not within a designated use area shall be permitted by Subtitle H § 1103 and the remainder of this chapter.

1102.2 When there is a difference between use permissions and conditions of this section and the designated use provisions, the more restrictive provisions or conditions shall apply.

1103 MATTER-OF-RIGHT USES (NC-USE GROUPS A, B, AND C)

1103.1 The following uses in this section shall be permitted as a matter of right:

(a) NC zone designated uses;

(b) Agriculture, large;

(c) Arts, design, and creation;

(d) Chancery,

(e) Education, private;

(f) Education, public;

(g) Government, local;

(h) Health care;

(i) Institutional, general and religious;

(j) Office, including chancery;

(k) Parking;

(l) Parks and recreation;

(m) Residential;

(n) Retail;

(o) Services, financial; and

(p) Transportation infrastructure.

1104 MATTER-OF-RIGHT USES (NC-USE GROUP A)

1104.1 The following uses in this section shall be permitted as a matter of right subject to any applicable conditions:

(a) Uses permitted as a matter of right in any R, RF, or RA zone;

(b) Any use permitted in Subtitle H §1103;

(c) Animal care and boarding uses subject to the conditions of Subtitle H § 1101.4(h);

(d) Daytime care uses for no more than five (5) persons not including resident supervisors or staff and their families;

(e) Eating and drinking establishment uses, except for:

(1) A prepared food shop shall be permitted as a matter of right with seating for no more than twenty-four (24) patrons; and

(2) A fast food establishment and a food delivery business shall not be permitted as a matter of right;

(f) Emergency shelter use for no more than four (4) persons, not including resident supervisors or staff and their families;

(g) Entertainment, assembly, and performing arts uses, except for a bowling alley;

(h) Motor vehicle uses limited to the following and subject to the corresponding conditions:

(1) Gasoline service station with a valid certificate of occupancy that has not been replaced by another use with a valid certificate of occupancy;

(2) Gasoline service station as an accessory use to a parking garage or public storage garage; provided:

(A) All portions of the gasoline service station shall be located entirely within the garage;

(B) No part of the accessory use shall be visible from a sidewalk; and

(C) Signs or displays indicating the existence of the accessory use shall not be visible from the outside of the garage;

(i) Service (general) uses except that a self-service or full service laundry, or dry cleaning establishment shall not exceed two thousand five hundred square feet (2,500 sq. ft.) of gross floor area and no dry cleaning chemicals shall be used or stored on site; and

(j) Utilities uses limited to optical transmission nodes.

1105 SPECIAL EXCEPTION USES (NC-USE GROUP A)

1105.1 In areas other than designated use areas, the uses in this section shall be permitted if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to any applicable provisions of each section:

(a) Animal care and boarding uses not meeting the conditions of Subtitle H § 1101.4(h), subject to the following:

(1) The use shall not be located on a lot that abuts an R, RF, or RA zone;

(2) The use shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste;

(3) The use shall take place entirely within an enclosed and soundproofed building in such a way so as to produce no noise or odor objectionable to nearby properties. The windows and doors of the premises shall be kept closed;

(4) All animal waste shall be placed in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odors shall be controlled by an air filtration system (for example, High Efficiently Particulate Air “HEPA” filtration) or an equivalently effective odor control system;

(5) External yards or other external facilities for the keeping of animals shall not be permitted;

(6) The sale of pet supplies shall be permitted as an accessory use;

(7) The principal use shall not be for the housing, feeding and care of stray or abandoned animals whether for profit or not for profit; and

(8) The Board of Zoning Adjustment may impose additional requirements pertaining to the location of building entrances or exits; buffers, fencing; soundproofing; odor control; waste storage and removal (including frequency); the species and/or number and/or breeds of animals; or other requirements, as the Board of Zoning Adjustment deems necessary to protect adjacent or nearby property;

(b) Community-based institutional facilities provided that the use shall house no more than to fifteen (15) persons, not including resident supervisors or staff and their families;

(c) Emergency shelter uses for up to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the following conditions:

(1) There shall be no other property containing an emergency shelter for seven (7) or more persons in the same square, or within a radius of five hundred feet (500 ft.) from any portion of the property;

(2) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

(3) The proposed shelter shall meet all applicable code and licensing requirements;

(4) The shelter shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area; and

(5) The Board of Zoning Adjustment may approve more than one (1) Emergency Shelter use in a square or within five hundred feet (500 ft.) from the property only when the Board of Zoning Adjustment finds that the cumulative effect of the shelters will not have an adverse impact on the neighborhood because of traffic, noise, or operations;

(d) Eating and drinking establishment use that is a prepared food shop with more than twenty-four (24) seats;

(e) Education, college/university uses shall be permitted as a special exception subject to Subtitle X § 102;

(f) Motor vehicle-related uses limited to the following and subject to the corresponding conditions:

(1) The use is a gasoline service station to be established or enlarged, subject to the following conditions;

(2) The use shall not be located within twenty-five feet (25 ft.) of an R, RF, or RA zone;

(3) The operation of the use shall not create dangerous or other objectionable traffic conditions; and

(4) Parking spaces may be arranged so that all spaces are not accessible at all times. All parking spaces shall be designed to allow parking and removal of any vehicles without moving any other vehicle onto public space; and

(g) Utilities uses, other than an optical transmission node, but not including an EEF use, subject to the use not, as a consequence of its design, operation, low employee presence, or proximity to other electronic equipment facilities inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian or vehicular movement.

1106 MATTER-OF-RIGHT USES (NC-USE GROUP B)

1106.1 The following uses in this section shall be permitted as a matter of right subject to any applicable conditions:

(a) Uses permitted as a matter of right in any R, RF, or RA zone;

(b) Any uses permitted in Subtitle H § 1103;

(c) Animal care and boarding uses subject to the conditions of Subtitle H § 1101.4(h);

(d) Daytime care uses for no more than twenty (20) persons, not including resident supervisors or staff and their families;

(e) Eating and drinking establishment uses, except for:

(1) A prepared food shop shall be permitted as a matter of right with seating for no more than twenty-four (24) patrons; and

(2) A fast food establishment and a food delivery business shall not be permitted as a matter of right;

(f) Emergency shelter use for no more than four (4) persons, not including resident supervisors or staff and their families;

(g) Education uses in the NC-10, NC-11, and NC-17 zones only;

(h) Firearms retail sales establishments, except that no portion of the establishment shall be located within three hundred feet (300 ft.) of:

(1) An R, RF, RA, MU-1, or MU-2 zone; or

(2) A place of worship, public or private school, public library, or playground;

(i) Lodging uses, except that they shall not be permitted in the NC-3 and NC-4 zones;

(j) Motor vehicle uses shall be limited to the following and subject to the corresponding conditions:

(1) An automobile rental agency;

(2) A car wash with stacking spaces for a minimum of fifteen (15) cars;

(3) A gasoline service station with a valid certificate of occupancy that has not been replaced by another use with a valid certificate of occupancy; and

(4) Gasoline service station as an accessory use to a parking garage or public storage garage; provided:

(A) All portions of the gasoline service station shall be located entirely within the garage;

(B) No part of the accessory use shall be visible from a sidewalk; and

(C) Signs or displays indicating the existence of the accessory use shall not be visible from the outside of the garage;

(k) Service (general) uses subject to the following limitations and corresponding conditions:

(1) A self-service or full service laundry, or dry cleaning establishment shall not exceed two thousand five hundred square feet (2,500 sq. ft.) of gross floor area and no dry cleaning chemicals shall be used or stored on site; and

(2) Any establishment that has as a principal use the administration of massage shall not be permitted as a matter of right; and

(l) Utilities uses limited to optical transmission nodes.

1107 SPECIAL EXCEPTION USES (NC-USE GROUP B)

1107.1 In areas other than designated use areas, the uses in this section shall be permitted if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to any applicable provisions of each section:

(a) Animal care and boarding uses not meeting the conditions of Subtitle H § 1101.4(h), subject to the conditions of Subtitle H § 1105.1(a);

(b) Community-based institutional facilities provided that the use shall house no more than twenty (20) persons, not including resident supervisors or staff and their families;

(c) Emergency shelter uses for up to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the conditions in Subtitle H § 1105.1(c);

(d) Eating and drinking establishment uses as follows:

(1) Prepared food shop with seating for more than twenty-four (24) patrons; and

(2) Fast food establishments or food delivery businesses shall be permitted, subject to the following conditions:

(A) The uses shall not be permitted in the NC-4 zone;

(B) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of an R, RA, or RF zone unless separated therefrom by a street or alley;

(C) If any lot line of the lot abuts an alley containing a zone district boundary line for a residential zone, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line. The brick wall shall not be required in the case of a building that extends for the full width of its lot;

(D) Any refuse dumpsters shall be housed in a three- (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face an R, RA, or RF zone;

(E) The use shall not include a drive-through;

(F) There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone district boundary line for a residential zone; and

(G) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions;

(e) Education, college/university uses subject to Subtitle X § 102, in all the other zones in NC-Use Group B that are not allowed as a matter of right;

(f) Motor vehicle-related uses are not permitted except for the following uses subject to the corresponding conditions:

(1) The uses shall not be permitted in the NC-14 and NC-16 zones; and

(2) A gasoline service station or repair garage not including body or fender work, subject to the following conditions:

(A) The use shall not be located within twenty-five feet (25 ft.) of an R, RF, or RA zone;

(B) The operation of the use shall not create dangerous or other objectionable traffic conditions; and

(C) Parking spaces may be arranged so that all spaces are not accessible at all times. All parking spaces shall be designed to allow parking and removal of any vehicles without moving any other vehicle onto public space;

(g) Motorcycle sales and repair uses subject to the following conditions:

(1) The use and all its accessory facilities shall be located within a building; and

(2) No portion of a building used for motorcycle sales and repair shall be located within fifty feet (50 ft.) of a R, RF, RA, MU-1, and MU-2 zone;

(h) The following service (general) uses:

(1) A self-service or full service laundry or dry cleaning establishment that exceeds two thousand five hundred square feet (2,500 sq. ft.) of gross floor area; and

(2) An establishment that has as a principal use the administration of massage;

(i) Utilities uses, other than an optical transmission node, but not including an EEF use, provided the Board of Zoning Adjustment concludes the use will not, as a consequence of its design, operation, low employee presence, or proximity to other electronic equipment facilities inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian or vehicular movement; and

(j) Parking uses: Accessory parking spaces elsewhere than on the same lot or part of the lot on which any principal use subject to the following conditions:

(1) The total number of parking spaces provided for the principal use shall not exceed the minimum number of spaces required for the principal use;

(2) It shall be considered economically impracticable or unsafe to locate the parking spaces within the principal building or on the same lot on which the building or use is permitted because of the following:

(A) Strip zoning or shallow zoning depth;

(B) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot;

(C) Unusual topography, grades, shape, size, or dimensions of the lot;

(D) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or

(E) Traffic hazards caused by unusual street grades or other conditions; and

(3) The parking spaces shall be located, and all facilities in relation to the parking spaces shall be designed, so that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.

1108 MATTER-OF-RIGHT USES (NC-USE GROUP C)

1108.1 The following uses in this section shall be permitted as a matter of right subject to any applicable conditions:

(a) Uses permitted as a matter of right in any R, RF, or RA zone;

(b) Uses permitted in Subtitle H § 1103;

(c) Animal care and boarding uses subject to the conditions of Subtitle H § 1101.4(h);

(d) Daytime care uses for no more than twenty (20) persons not including resident supervisors or staff and their families;

(e) Eating and drinking establishment uses, except a fast food establishment shall not be permitted as a matter of right;

(f) Firearms retail sales establishments, except that no portion of the establishment shall be located within three hundred feet (300 ft.) of:

(1) An R, RF, RA, MU-1, or MU-2 zone; or

(2) A place of worship, public or private school, public library, or playground;

(g) Lodging uses shall not be permitted in the NC-5 zone;

(h) Service (general) uses subject to the following limitations and corresponding conditions:

(1) A self-service or full service laundry or dry cleaning establishment shall not exceed five thousand square feet (5,000 sq. ft.) of gross floor area, and no dry cleaning chemicals shall be used or stored on site; and

(2) Any establishment that has as a principal use the administration of massage shall not be permitted; and

(i) Utilities uses subject to the following limitations and conditions:

(1) The use is an optical transmission node; and

(2) The use is an EEF that occupies no more than twenty-five percent (25%) of the above ground constructed gross floor area of the building; or

(3) The use is located below ground floor.

1109 SPECIAL EXCEPTION USES (NC-USE GROUP C)

1109.1 In areas other than designated use areas, the uses in this section shall be permitted if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to any applicable provisions of each section:

(a) Animal care and boarding uses not meeting the conditions of Subtitle H § 1101.4(h), subject to the conditions of Subtitle H § 1105.1(a);

(b) Eating and drinking establishment use that is a fast food establishment, subject to the conditions of Subtitle H § 1107.1(d); except that the use shall not be permitted in the NC-5 zone;

(c) Motor vehicle-related uses are not permitted except for the following uses subject to the corresponding conditions:

(1) A gasoline service station or repair garage, subject to the following conditions:

(A) The use shall not be located within twenty-five feet (25 ft.) of an R, RF, or RA zone;

(B) The operation of the use shall not create dangerous or other objectionable traffic conditions; and

(C) Parking spaces may be arranged so that all spaces are not accessible at all times. All parking spaces shall be designed to allow parking and removal of any vehicles without moving any other vehicle onto public space;

(2) Motorcycle sales and repair uses, subject to the following conditions:

(A) The use and all its accessory facilities shall be located within a building; and

(B) No portion of a building used for motorcycle sales and repair shall be located within fifty feet (50 ft.) of an R, RF, RA, MU-1 or MU-2 zone;

(d) Service (general) uses not meeting the conditions of Subtitle H §1108.1(h);

(e) Utilities uses not meeting the conditions of Subtitle H § 1108.1(i) and subject to the use will not, as a consequence of its design, operation, low employee presence, or proximity to other electronic equipment facilities inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian or vehicular movement;

(f) Parking uses: Accessory parking spaces elsewhere than on the same lot or part of the lot on which any principal use subject to the following conditions:

(1) The total number of parking spaces provided for the principal use shall not exceed the minimum number of spaces required for the principal use;

(2) It shall be considered economically impracticable or unsafe to locate the parking spaces within the principal building or on the same lot on which the building or use is permitted because of the following:

(A) Strip zoning or shallow zoning depth;

(B) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot;

(C) Unusual topography, grades, shape, size, or dimensions of the lot;

(D) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or

(E) Traffic hazards caused by unusual street grades or other conditions; and

(3) The parking spaces shall be located, and all facilities in relation to the parking spaces shall be designed, so that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions; and

(g) An automated parking garage as a principal use located and designed so as it is not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.

1110 USES NOT PERMITTED IN NC ZONES

1110.1 Any use not permitted as a matter of right or as a special exception in this chapter shall be deemed to be not permitted.

CHAPTER 12 RELIEF FROM DEVELOPMENT STANDARDS

1200 GENERAL PROVISIONS

1200.1 The Board of Zoning Adjustment may grant relief from the standards of this subtitle as a special exception subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

(a) The excepted use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the NC zones, and will not adversely affect neighboring property, nor be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity;

(b) The architectural design of the project shall enhance the urban design features of the immediate vicinity in which it is located; and, if a historic district or historic landmark is involved, the Office of Planning report to the Board of Zoning Adjustment shall include review by the Historic Preservation Office and a status of the project's review by the Historic Preservation Review Board;

(c) Exceptional circumstances exist, pertaining to the property itself or to economic or physical conditions in the immediate area, that justify the exception or waiver;

(d) Vehicular access and egress are located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions;

(e) Parking and traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences;

(f) Noise associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences; and

(g) The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the NC zone.

1200.2 This section shall not operate to allow any exception to the height or floor area ratio limits of any NC zone.

1201 SPECIAL EXCEPTION CRITERIA - GEORGIA AVENUE NEIGHBORHOOD MIXED-USE ZONES

1201.1 In addition to the requirements of Subtitle H § 1200, an application for special exception in the NC-7 and NC-8 zones shall demonstrate that the project is consistent with the design intent of the design requirements of Subtitle H § 809.

1202 SPECIAL EXCEPTION CRITERIA - H STREET NORTHEAST NEIGHBORHOOD MIXED-USE ZONES

1202.1 In addition to the requirements of Subtitle H § 1200, an application for special exception in the NC-9 through NC-17 zones shall demonstrate that the project is consistent with the design intent of the design requirements of Subtitle H § 909 and the design guidelines of the H Street N.E. Strategic Development Plan.

TITLE 11 – ZONING

SUBTITLE I DOWNTOWN ZONES

TITLE 11 – ZONING I-1

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CHAPTER 1 INTRODUCTION TO DOWNTOWN (D) ZONES

100 PURPOSES OF DOWNTOWN (D) ZONES

100.1 The purposes of the Downtown (D) zones (D-1-R, D-2, D-3, D-4, D-4-R, D-5, D-5-R, D-6, D-6-R, D-7, and D-8) are to provide for the orderly development and use of land and structures in areas the Comprehensive Plan generally characterized as:

(a) Central Washington; or

(b) Appropriate for a high-density mix of office, retail, service, residential, entertainment, lodging, institutional, and other uses, often grouped into neighborhoods with distinct identities.

100.2 The provisions of this subtitle are intended to:

(a) Create a balanced mixture of land uses by providing incentives and requirements for retail, residential, entertainment, arts, and cultural uses the Comprehensive Plan identifies as essential to a successful downtown, and by guiding and regulating office development;

(b) Protect historic buildings and places while permitting compatible new development, subject to the review process of the Historic Landmark and Historic District Protection Act of 1978;

(c) Guide the design of buildings into being not inconsistent with the policies of the Central Washington Element and other relevant elements of the Comprehensive Plan;

(d) Provide for the return of historic L'Enfant streets and rights-of way;

(e) Establish design or use requirements for the ground-level of buildings facing certain streets that are of high priority for furthering retail, pedestrian or historic purposes contained in the Comprehensive Plan;

(f) Encourage the development of publicly-accessible open space;

(g) Encourage the development of housing, including the development and preservation of affordable housing, in Central Washington consistent with the policies of the Central Washington Element and other relevant elements of the Comprehensive Plan;

(h) Provide incentives and flexible mechanisms for achieving the retail, residential, historic, and open spaces goals through the generation and use of density credits that can be traded within defined areas;

(i) Ensure a continued mix of retail and residential development in the Comprehensive Plan's Chinatown policy focus area;

(j) Promote the growth of a well-design mixed-uses and streetscapes on portions of M Street, S.E., South Capitol Street, and properties now devoted to federal offices in Southwest, including a mechanism for selective design review by the Zoning Commission; and

(k) Provide for adequate and visually acceptable parking and consolidated loading facilities that do not interfere with active, pedestrian-oriented sidewalks and the flow of vehicular traffic.

101 TYPES OF DOWNTOWN (D) REGULATIONS

101.1 Development of property in the D zones is governed by:

(a) General zone development standards and use regulations and those specific to a particular zone, including standards and conditions for physical development and uses, regardless of the geographic location of a property within the zone;

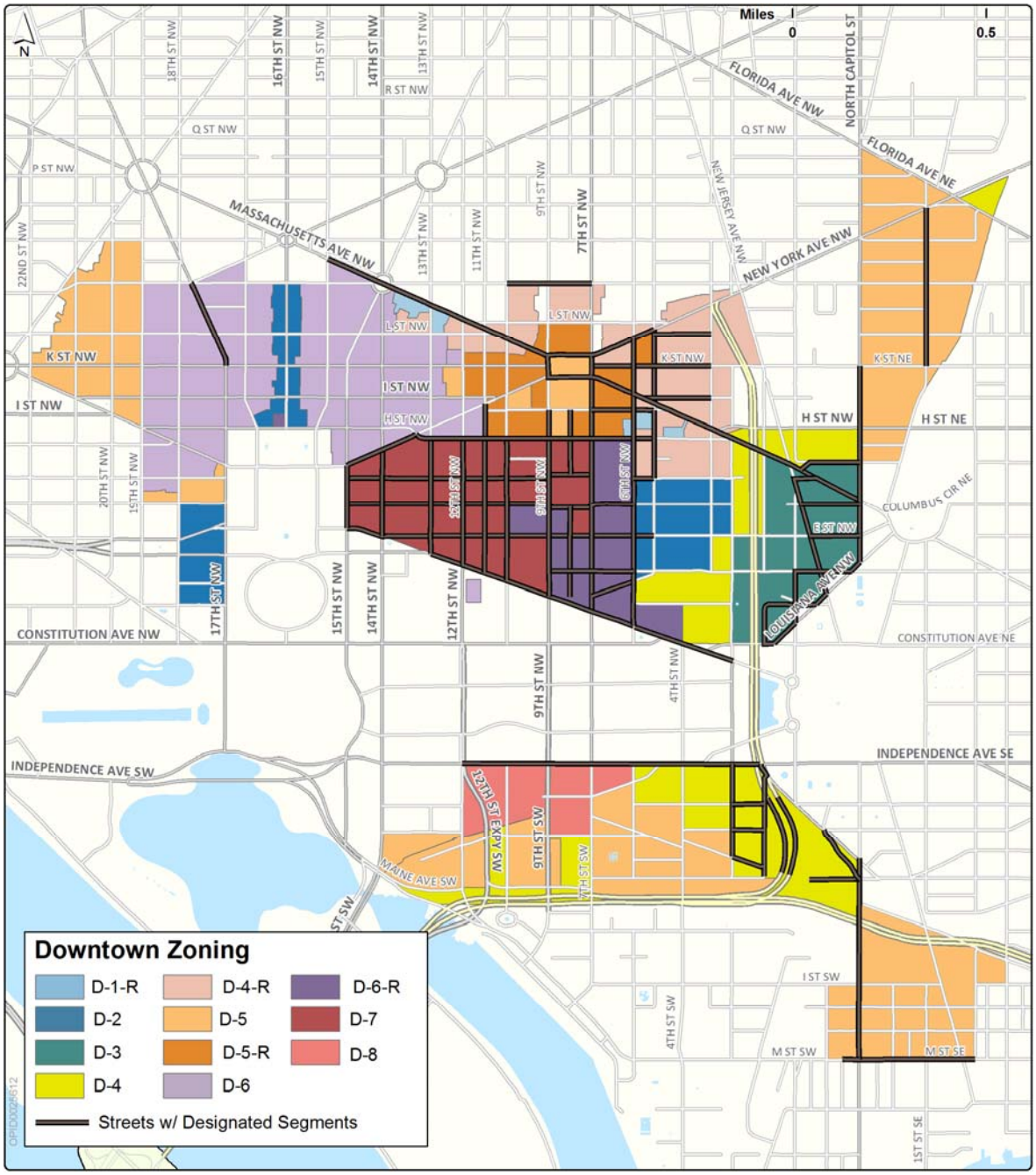
(b) Location-specific regulations that apply to a property that is located in a sub-area specified in Subtitle I, Chapter 6 and has frontage on one (1) or more of the sub-area's designated street segments, regardless of the zone district in which the property is located;

(c) Site-plan, design, massing, or review standards in a limited number of zones or sub-areas; and

(d) An optional process for zones other than D-1-R or D-2 to achieve bonus density or to shift the location of required uses within a trading area, as specified in Subtitle I, Chapters 8 and 9.

101.2 Figure I § 101.2 illustrates the general boundaries of the D zones and the designated street segments. Precise zone boundaries are provided by District of Columbia Zoning Map.

FIGURE I §101.2: GENERAL BOUNDARIES OF THE D ZONES



102 GENERAL PROVISIONS

102.1 Unless otherwise noted in this subtitle, the definitions of terms and uses, the rules of measurement, and the categorization of uses are the same as and governed by Subtitles B, C, and U.

102.2 If there is a conflict between regulations in this subtitle and regulations in other subtitles regarding the same regulatory topic, this subtitle shall govern.

102.3 Unless otherwise stated, the requirements, restrictions, and incentives of this subtitle apply to all new buildings and to existing buildings where any additions, alterations, or repairs made within a consecutive twelve (12)-month period exceed one hundred percent (100%) of the assessed value of the building as set forth in the records of the Office of Tax and Revenue as of the date of the building permit application.

102.4 The cost basis for alterations or additions to an existing building shall be the amount indicated by the applicant on the application for a building permit.

102.5 Where there are conflicts between regulations within this subtitle, the stricter regulations apply.

CHAPTER 2 GENERAL DEVELOPMENT STANDARDS FOR DOWNTOWN (D) ZONES

200 DENSITY – FLOOR AREA RATIO (FAR)

200.1 Gross floor area shall be measured as specified in Subtitle B § 304.

200.2 If a historic landmark or contributing building in a historic district has an existing density of 6.0 floor area ratio (FAR) or less, the portion of the lot within the historic structure's footprint:

(a) Shall be limited to an on-site FAR of 6.0;

(b) Shall be exempt from the minimum residential requirements of the lot's zone;

(c) May generate density credits under the provisions of Subtitle I, Chapter 8; and

(d) May average the permitted 6.0 FAR with the permitted FARs of other lots under common ownership or for which there has been an agreement as to the allocation of FAR within the same square as the historic property or contributing building, including lots and portions of lots not subject to the 6.0 FAR maximum, to achieve a composite FAR.

200.3 If a historic landmark or contributing building or structure in a historic district has an existing FAR of more than 6.0 on the portion of the lot within the historic structure's footprint, it shall not increase its existing FAR within the historic structure's footprint, but shall be permitted to occupy all of the existing floors of the building for uses permitted within the zone and may generate density credits under the provisions of Subtitle I, Chapter 8.

200.4 In all D zones, except for the D-1-R zone, a property may achieve a base FAR for non-residential uses if it satisfies any minimum residential requirement for the zone. Additional FAR not to exceed the maximum FAR for the zone specified in Subtitle I, Chapter 4 may be achieved by:

(a) Providing additional FAR devoted to residential use that is not used to meet the minimum residential floor area requirements specified for the zone provided that additional residential FAR does not provide housing for students in a building owned or leased by a public, charter, parochial, or private school or community college, college, or university for the purpose of housing students enrolled in the school owning or leasing the building;

(b) Providing additional FAR that is not used to meet a geographic sub-area's minimum use-type requirements;

(c) Using credits as provided for by Subtitle I, Chapters 8 and 9, with the following exceptions:

(1) Properties in the D-1-R or D-2 zones are not eligible to use credits; and

(2) Historic landmarks or contributing buildings to historic districts in the D-3 through D-5 zones are subject to limitations of Subtitle I, Chapter 9; and

(d) If located in the D-8 zone, dedicating historic street rights–of-way, as detailed in Subtitle I § 575.

200.5 Unless otherwise restricted by this subtitle, if the regulations for an individual zone restrict the non-residential density of a building, the non-residential density of a building constructed as part of a planned unit development (PUD) may be increased in accordance with Subtitle X § 303.3 and Subtitle I § 211.

200.6 Additional FAR conditions particular to the following zones are located in the regulations governing those zones:

(a) D-4-R pursuant to Subtitle I § 531;

(b) D-5-R pursuant to Subtitle I § 547;

(c) D-6 pursuant to Subtitle I § 555;

(d) D-6-R pursuant to Subtitle I § 562; and

(e) D-8 pursuant to Subtitle I § 576.

200.7 Within the D-3 through D-8 zones, for a building or structure in existence with a valid Certificate of Occupancy prior to November 17, 1978, or for which an application for a building permit was filed prior to November 17, 1978, a conversion of non-residential GFA to residential GFA, even if in excess of otherwise permitted FAR, shall be permitted, provided that requirements for ground floor designated uses of Subtitle I §601 are provided.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

201 HEIGHT

201.1 Unless otherwise noted in Subtitle I § 201.4, the maximum permitted building height, not including the penthouse, shall be that specified in the zone in which it is located.

201.2 Height shall be measured in accordance with Subtitle B § 307, except as provided in Subtitle I § 201.3.

201.3 A building or structure that has frontage on Pennsylvania Avenue, N.W within the boundaries of the Pennsylvania Avenue sub-area defined in Subtitle I § 608 shall determine its measuring point by the rules in Subtitle I § 608.9.

201.4 The height of a building or structure on portions of designated street segments in the following sub-areas shall provide an upper-story height setback, or be subject to additional review, as prescribed in Subtitle I, Chapter 6:

(a) Capitol Security Sub-Area pursuant to Subtitle I § 605;

(b) Pennsylvania Avenue Sub-Area pursuant to Subtitle I § 608;

(c) Massachusetts Avenue Corridor and Mount Vernon Square Sub-Area pursuant to Subtitle I § 610;

(d) Mount Vernon Triangle Principal Intersection Sub-Area pursuant to Subtitle I § 612;

(e) The 900 block of M Street, N.W. in the Blagden Alley Residential Transition Sub-Area pursuant to Subtitle I § 613;

(f) South Capitol Street pursuant to Subtitle I § 616;

(g) North Capitol Street pursuant to Subtitle I § 617; and

(h) Independence Avenue, S.W. pursuant to Subtitle I § 618.

201.5 Unless otherwise restricted by this subtitle, if the regulations for an individual zone restrict the non-residential height of a building, the non-residential height of a building constructed as part of a PUD may be increased in accordance with Subtitle X § 303 and Subtitle I § 211.

201.6 No part of a new building or a vertical expansion of an existing building on a lot within a D zone shall project above a plane at a forty-five degree (45°) angle from a line that is:

(a) Directly above the zone boundary line between the lot in a D zone and an adjacent lot in an R or RA zone; or

(b) Above a boundary line described in Subtitle I § 201.6(a), or an MU-zoned lot west of 20th Street, N.W. by the distance of the matter-of-right height for a building on the abutting R, RA, or MU-zoned lot.

202 LOT OCCUPANCY

202.1 Unless otherwise limited by regulations governing courts, side or rear yards, front setback or build-to lines, easements or historic preservation, each building on a lot in any D zone may occupy one hundred percent (100%) of its lot.

203 FRONT BUILD-TO LINE

203.1 In the D-1-R, D-3, D-4-R, D-5-R, D-6-R, and D-7 zones, at least seventy-five percent (75%) of each newly constructed building wall fronting a street shall be constructed to or within four feet (4 ft.) of the property line between the subject lot and the abutting street right-of-way, to a height of at least fifteen feet (15 ft.) above the higher of the building's measuring point or the level of the curb from which the building is drawing its height, provided the building wall:

(a) Faces a designated primary street segment as identified in Subtitle I, Chapter 6; or

(b) Faces an avenue named after the official name of a state, commonwealth, or district in the United States of America.

203.2 If a property is subject to a front build-to requirement, the build-to line shall be the property line along the street(s) to which a building or structure is adjacent, unless the build-to line is otherwise specified for a designated street segment within the following sub-areas regulated by Subtitle I, Chapter 6:

(a) Pennsylvania Avenue Sub-Area, Subtitle I § 608;

(b) South Capitol and M Streets Sub-Area, Subtitle I § 616; or

(c) Independence Avenue, S.W. Sub-Area, Subtitle I § 618.

203.3 The Board of Zoning Adjustment may grant relief to the front build-to line requirements as a special exception pursuant to Subtitle X, provided:

(a) The integrity of the blockface's build-to line shall not be eroded when the property is viewed from either end of the blockface; and

(b) The area in excess of twenty-five percent (25%) that is removed from the lot line shall be open to the public during daylight hours.

204 FRONT SETBACK MEASUREMENT RULES

204.1 A front setback shall be measured from each property line adjacent to a public street on which the building has frontage, unless the setback measuring line is otherwise specified for a designated street segment within the Mount Vernon Triangle Principal Intersection, Pennsylvania Avenue, South Capitol Street, or Independence Avenue, sub-areas in Subtitle I, Chapter 6.

205 REAR YARD

205.1 Except as provided Subtitle B §§ 317 and 318.6 and in Subtitle I § 205.2, a rear yard shall be provided for each structure located in a D zone, the minimum depth of which yard shall be two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet, but not less than twelve feet (12 ft.).

205.2 A rear yard need not be provided:

(a) Within the depth specified in § Subtitle I 205.1 for the first twenty-five feet (25 ft.) above the mean finished grade at the middle of the rear of the structure and a horizontal plane) above the first plane;

(b) For a through lot, including a lot fronting on three or more streets; and

(c) For a corner lot, as provided for in Subtitle I § 205.4.

205.3 The required rear yard shall be measured according to the regulations in Subtitle B § 319, with the following exception: if the lot abuts an alley, the rear yard may be measured to the center line of an alley-abutting a rear-lot line, rather than to the rear lot-line, in which case, for this subsection, the term "center line of an alley abutting a rear lot line," shall have the same meaning as the term "rear lot line".

205.4 For a corner lot in any D zone except for the D-1-R zone, a court may be provided in lieu of a rear yard, subject to the following:

(a) The court shall comprise at least two (2) building walls and at least one (1) property line;

(b) The building walls need not have windows or face each other;

(c) The court shall be provided above a horizontal plane twenty-five feet (25 ft.) above the mean elevation of the rear lot line, and may be provided below that; and

(d) The court shall comply with the width requirements for a closed court as specified in Subtitle I § 207.1, with the height of the court being measured from the horizontal plane described in Subtitle I § 205.4(c), and with the width being computed for the entire height of the court above that plane.

205.5 The Board of Zoning Adjustment may waive the rear yard requirements as a special exception pursuant to Subtitle X and subject to the following conditions:

(a) No window to a residence use shall be located within forty feet (40 ft.) of another facing building;

(b) No window to an office use shall be located within thirty feet (30 ft.) of another facing office window, nor eighteen feet (18 ft.) in front of a facing blank wall;

(c) A greater distance may be required between windows in a facing building than the minimum prescribed in (a) or (b) if necessary to provide adequate light and privacy to habitable rooms as determined by the angle of sight lines and the distance of penetration of sight lines into such habitable rooms; and

(d) The building shall provide for adequate off-street service functions, including parking and loading areas and access points.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

206 SIDE YARD

206.1 No side yard is required for a principal structure in a D zone; however, if a side setback is provided on any portion of the principal building, it shall comply with Subtitle B §§ 319 and 320, and shall be at least four feet (4 ft.) wide.

206.2 The Board of Zoning Adjustment may grant relief to the side yard requirements as a special exception pursuant to Subtitle X, Chapter 9.

206.3 The side yard regulations shall not apply to historic landmarks or contributing buildings within historic districts.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

207 COURT REQUIREMENTS

207.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE I § 207.1: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than 3 units	4 in./ ft. of height of court; 10 ft. minimum	4 in./ft. of height of court; 15 ft. minimum	Twice the square of the required width of court dimension; 350 sq. ft. minimum
Non-Residential and Lodging	2.5in./ft. of height of court; 6 ft. minimum	2.5 in./ft. of height of court; 12 ft. minimum	Twice the square of the required width of court dimension; 250 sq. ft. minimum.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

208 GREEN AREA RATIO

208.1 Each building in a D zone shall achieve a Green Area Ratio (GAR), as specified in the following table, for the zone in which the building is located and is subject to the requirements, permissions, and conditions of Subtitle C, Chapter 6:

TABLE I § 208.1: GREEN AREA RATIO REQUIREMENTS

Zone	Green Area Ratio
D-2	0.30
D-1-R, D-3, D-4, D-4-R, D-5, D-5-R, D-6, D-6-R, D-7, D-8	0.20

209 ACCESSORY BUILDINGS

209.1 Accessory buildings may be permitted within a D zone provided the accessory building is located on the same lot as a principal building; is subordinate to and secondary in size to the principal building, and complies with setback requirements for the zone in which the accessory building is located.

209.2 An accessory building shall be used for purposes which are incidental to the use of the principal building.

210 ALLEY LOTS

210.1 The following development standards shall apply to buildings on alley lots in D zones:

(a) A building or structure shall not exceed the lesser of thirty feet (30 ft.) or three (3) stories, including the penthouse, as measured from the ground level of a building wall fronting on an alley to which the alley building or structure is adjacent;

(b) A building or structure on an alley lot shall be set back at least five feet (5 ft.) from any lot line of all abutting non-alley lots; and

(c) A building or structure on an alley lot shall be setback at least seven and one-half feet (7.5 ft.) from the centerline of all alleys the alley lot abuts.

210.2 With the exception of residential uses, a building or structure on an alley lot shall be subject to the same permissions, conditions, and restrictions as matter-of-right, special exception, and prohibited uses as the zone in which the alley lot is located.

210.3 Residential use is permitted, subject to the following conditions:

(a) A building may not be constructed or converted to a single or multiple dwelling unit unless there is a minimum of four hundred and fifty square feet (450 sq. ft.) of lot area per unit; and

(b) The alley lot has access to an improved public street as follows:

(1) Through an improved alley or alleys twenty-four feet (24 ft.) or more in width; or

(2) On an improved alley no less than fifteen feet (15 ft.) in width and within three hundred (300) linear feet of a public street.

210.4 The residential dwelling shall meet all building code requirements for a permanent residential structure.

210.5 If the Zoning Administrator or other authorized building official determines that the access from a proposed dwelling on an alley lot is insufficient to provide the intended public safety, hygiene, or other building code requirement, the application for the residential dwelling shall be referred to the Board of Zoning Adjustment for consideration as a special exception under Subtitle X, Chapter 9 with the following additional criteria:

(a) The Board of Zoning Adjustment determines, after considering relevant agency comments concerning water and sewer services, waste management, traffic and parking, and public safety relating to fire concerns, there is no adverse impact to the adjoining properties; and

(b) The Board of Zoning Adjustment determines that adequate public utilities and safety can be provided for the residents of the proposed dwelling and adjoining buildings.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

211 PLANNED UNIT DEVELOPMENTS

211.1 A planned unit development (PUD) in the D zones shall be subject to the following provisions in addition to those of Subtitle X, Chapter 3:

(a) The PUD shall be granted only for projects that are superior in achieving the objectives and policies of the Central Washington Area Element of the Comprehensive Plan and the purposes of this subtitle;

(b) The PUD process shall not be used to reduce requirements in this subtitle for preferred uses such as retail, service, entertainment, arts, and residential uses;

(c) An applicant for a PUD within the D-3 through D-8 zones seeking non-residential FAR greater than the non-residential FAR permitted in Subtitle

I, Chapter 5 shall demonstrate to the Zoning Commission that credits pursuant to Subtitle I, Chapters 8 and 9 have been acquired to the maximum extent feasible prior to the PUD application; and

(d) The maximum increase in FAR that may be permitted for a PUD application that has complied with Subtitle I § 211.1(c) may be based on the FAR permitted through compliance with that section.

212 PARKING REQUIREMENTS AND STANDARDS

212.1 Vehicle parking spaces are not required in D zones, other than areas west of the centerline of 20th Street, N.W.

212.2 Vehicular parking shall be subject to the requirements, permission, and conditions of Subtitle C, Chapter 7.

212.3 Car-sharing spaces may be provided, but shall be subject to the standards in Subtitle C, Chapter 7.

212.4 Any external parking spaces shall be screened, consistent with the standards in Subtitle C, from any adjacent street or sidewalk, and from any residentially zoned lot that shares a lot line boundary with the lot containing the parking spaces.

212.5 Bicycle parking shall be subject to the standards in Subtitle C, Chapter 8.

212.6 The parking facility shall be permitted as a matter of right if:

(a) The parking facility shall conform to the requirements in Subtitle C, Chapter 7;

(b) The parking facility shall be permitted as a matter-of-right if:

(1) It provides only short-term parking and all of the parking spaces are leased to merchants or a park-and-shop organization; and

(2) It provides parking only for residents of the building; and

(c) The parking facility shall require Board of Zoning Adjustment approval as a variance pursuant to Subtitle Y if it provides all-day, commuter parking.

212.7 A carwash, including interior detailing, is a permitted accessory use within a permitted parking facility.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

213 LOADING REQUIREMENTS

213.1 Loading is required in all D zones, based on the square footage of uses, and is subject to the requirements, permissions, and conditions in Subtitle C, Chapter 9.

214 PENTHOUSES

214.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

CHAPTER 3 GENERAL ZONE-BASED USE REQUIREMENTS AND CONDITIONS

300 INTRODUCTION

300.1 The purpose of regulating use categories in D zones is to allow for an appropriate mix of residential, office, lodging, retail, service, entertainment, cultural, and other uses.

300.2 This chapter provides general regulations concerning uses permitted in D zones where such rules or conditions are needed in addition to those contained in other subtitles.

300.3 Uses are regulated by the zone district in which the property is located and, if the property is located in a geographic sub-area specified in Subtitle I, Chapter 6, by the type of designated street on which a property has frontage.

301 REQUIRED USES

301.1 The provision of residential use is required in a D zone with an "R"-suffix.

301.2 A property with frontage on a designated primary or secondary street segment is subject to the use requirements in Subtitle I, Chapter 6 for the sub-area in which the designated street frontage is located.

302 USES PERMITTED AS A MATTER OF RIGHT

302.1 Unless otherwise noted in this subtitle, use permissions, including uses permitted as a matter of right, as a special exception, or as an accessory use, and uses not permitted, shall be in accordance with the MU-Use Group F of Subtitle U, Chapter 5, unless modified in this chapter, or by regulations governing a specific D zone or sub-area.

302.2 The following uses shall be permitted as a matter of right, subject to conditions:

(a) Firearms sales, in all zones other than the D-1-R zone, subject to the conditions listed in Subtitle U § 512.1(f);

(b) Massage administration in any establishment where it is a principle use, in any zone, except for the D-1-R or D-2 zones, provided that no portion of the establishment shall be located within two hundred feet (200 ft.) of an R, RF, or RA zone;

(c) Motorcycle sales and repair, in all zones except for the D-1-R, D-2, and D-4 zones, subject to the conditions in Subtitle U § 515.1(i);

(d) Motor vehicle-related uses in all zones except for the D-1-R and D-2 zones, provided they do not include fuel sales and vehicle repair or service, except as incidental and subordinate to other permitted use categories;

(e) Production, distribution, and repair uses, provided:

(1) The use is not located in the D-1-R or D-2 zone;

(2) If the use is located in the D-3 zone and it has a valid certificate of occupancy on the effective date of this title, it shall be deemed a conforming use, but shall not be entitled to expand;

(3) All aspects of the use shall be conducted within a fully enclosed building or structure;

(4) The use, including any storage, shall occupy no more than ten thousand square feet (10,000 sq. ft.); and

(5) The excavation of rock for commercial purposes or the operation of a rock quarry is not permitted; and

(f) Financial Services in all zones except for the D-1-R and D-2 zones, provided not more than twenty-five percent (25%) of the ground floor area permitted for non-residential use shall be devoted to banks, loan offices, or other financial institutions, travel agencies, or ticket offices.

303 USES PERMITTED BY SPECIAL EXCEPTION

303.1 The uses in this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following applicable provisions:

(a) Animal care and boarding uses, pet grooming establishments, and pet shops in any D zone except for the D-1-R zone and the portions of the D-7 zone within the boundaries of the Pennsylvania Avenue Sub-Area defined in Subtitle I § 608, subject to the conditions in Subtitle U § 513.1(a) and:

(1) If animal boarding is provided, the use shall be located on or below the ground floor of the building; and

(2) Animal boarding is not permitted in a pet grooming establishment or pet shop;

(b) Eating and drinking establishments in the D-1-R and D-2 zones, provided the uses are located on or below the ground floor of the building;

(c) Large scale government uses;

(d) Large format retail uses subject to the conditions in Subtitle U § 511.1(j), except that sufficient parking shall be provided for employees and customers;

(e) Motorcycle sales and repair in the D-4 zone, subject to the conditions in Subtitle U § 515.1(i);

(f) Motor vehicle sales not meeting the conditions in Subtitle I § 302.2(d) in any D zone except for the D-1-R zone, and subject to the following conditions:

(3) The use does not include auto body or fender repair; and

(4) The uses shall be located on or below the ground floor of the building;

(g) Sexually-oriented business establishment uses in any D zone other than the D-1-R zone, subject to the following additional conditions:

(5) The use shall not be located within six hundred feet (600 ft.) of an R, RF, or RA zone or of an education use;

(6) The use shall not be located within three hundred feet (300 ft.) of another sexually-oriented business establishment use;

(7) There shall be no display of goods or services visible from the exterior of the premises; and

(8) The use shall not have an adverse impact on educational, institutional, or government uses in the area;

(h) Retail services, general, in the D-2 zone, provided the uses shall be located on or below the ground floor of the building; and

(i) Veterinary office or veterinary boarding hospitals, subject to the conditions in Subtitle U § 513.1 in any D zones except for the D-1-R zone and the portions of the D-7- zone within the boundaries of the Pennsylvania Avenue Sub-Area defined in Subtitle I § 608.

304 USES NOT PERMITTED

304.1 The following uses shall not be permitted as a matter of right or as a special exception in the D-1-R zone:

(a) Lodging;

(b) Office use;

(c) Firearms sales; and

(d) Sexually-oriented business establishments.

304.2 The following uses shall not be permitted as a matter of right or as a special exception in the D-1-R zone or the D-2-zone:

(a) Motorcycles sales and repair; and

(b) Production, distribution, and repair uses.

304.3 The following uses shall not be permitted as a matter of right or as a special exception any D zone:

(a) Marine; and

(b) Waste-related services.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

305 GENERAL RESIDENTIAL USE REQUIREMENTS

305.1 Unless otherwise reduced or exempted by the provisions of this subtitle, a building in the D-1-R zone shall provide the minimum amount of required residential FAR on site.

305.2 Unless otherwise reduced or exempted by the provisions of this subtitle, a building in the D-4-R, D-5-R, or D-6-R zone shall provide the minimum amount of residential FAR required in the zone, either on the site or on a site linked to it through the purchase and use of credits as provided for by Subtitle I, Chapters 8 and 9.

305.3 The minimum residential requirements of a zone shall not apply to:

(a) Historic properties exempted by Subtitle I §§ 200.2 or 200.3;

(b) Buildings where the primary use and the valid certificate of occupancy is for religious worship;

(c) The renovation of a non-residential building that has a height of six (6) floors or less at and above grade, and that has been in existence as of January 17, 1991; or

(d) A building that is vacant, has less FAR than the minimum residential requirements of the zone, is brought up to building code, and is covenanted to continue in residential use for twenty (20) years or longer.

305.4 Residential uses required by Subtitle I, Chapter 5 shall not diminish the matter-of-right non-residential FAR allowed in a zone; but the non-residential space may

not receive a certificate of occupancy until the Zoning Administrator determines that the zone requirements of Subtitle I, Chapter 5 and Subtitle I, Chapters 8 and 9, if credits are generated or used, have been met.

305.5 A child development center or a child development home shall be considered a residential use in a building with at least 2.0 FAR of residential use, not inclusive of the child development center or home, provided the center will be open and operate during normal business hours at least five (5) days each week and fifty (50) weeks each calendar year, excluding public holidays.

305.6 If a building on a lot that requires residential use is in residential use as of the effective date of this title and the residential gross floor area of a building is less than the amount of residential use required for the lot by this section, there shall be no additional residential requirement for that lot as long as the existing building remains in residential use.

305.7 The residential requirements of the D-4-R, D-5-R and D-6-R zones can be reduced according to the limits listed for the particular zone, provided:

(a) The affordable housing is targeted to low-income households;

(b) The affordable dwelling units are constructed directly by the owner of a lot subject to the residential requirement or through a joint venture with either a nonprofit housing sponsor or a for-profit builder/developer;

(c) The total project cost of the affordable units, including acquisition, construction, and long-term subsidy, shall be not less than C = GFA (AV/LA)/FAR x 90%, where:

(1) C = The contribution;

(2) GFA = The amount of additional commercial space that is built on-site, measured in square feet;

(3) AV = The assessed value of the land and improvements on the July 1st preceding the date on which the application for a building permit is filed;

(4) LA = The number of square feet of land included in the property;

(5) FAR = The commercial FAR used by the tax assessor to determine the assessed value; and

(6) 90% = The proportion of assessed commercial value that has been determined to be appropriate for this contribution;

(d) If the affordable dwelling units are provided by rehabilitation, the building(s) shall have been previously in nonresidential use, or vacant for

a minimum of three (3) years, or if occupied, shall be a tenant-sponsored purchase of the building where the tenants meet the definition of low-income households;

(e) The Director of the Department of Housing and Community Development or the administrator of the D.C. Housing Production Trust Fund shall certify to the Zoning Administrator that:

(1) Suitable legal and financial arrangements have been made to assure that the housing qualifies and will be continued as affordable dwelling units for not less than forty (40) years;

(2) The funds fill a gap identified in sources and uses documentation submitted to the Director of the Department of Housing and Community Development as part of any application for financing;

(3) The expenditure of funds per dwelling unit and the use of the funds in combination with other financial leverage is an effective means of assisting in the production of affordable housing; and

(4) Conditions of Subtitle I §§ 305.7(a) through (f) have been met; and

(f) No certificate of occupancy shall be issued for the non-residential development of a lot subject to Subtitle I §§ 305.7(a) through (d) until a certificate of occupancy has been issued for the affordable dwelling units, unless the affordable dwelling units are to be constructed on property owned by the District of Columbia.

305.8 Subtitle I, Chapters 8 and 9 contain the regulations for the credit system that applies to residential uses.

305.9 Residential FAR in a building owned or leased by a public, charter, parochial, or private school or community college, college, or university for the purpose of housing students enrolled in the school owning or leasing the building shall count towards fulfilling the residential FAR required in the D-1-R, D-4-R, D-5-R, or D-6-R zones, but shall not:

(a) Count toward fulfilling the Inclusionary Zoning requirements of Subtitle C, Chapter 10;

(b) Generate bonus density; or

(c) Be eligible to generate or be used for the credits provided for in Subtitle I, Chapters 8 and 9.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

306 USES ON ALLEY LOTS

306.1 A use on an alley lot or in a building on an alley lot in the D-1-R zone shall be subject to the use regulations in Subtitle U § 600, and is not eligible to generate or receive credits otherwise enabled by Subtitle I, Chapters 8 and 9.

CHAPTER 4 GENERAL ZONE-BASED DESIGN REQUIREMENTS AND PERMISSIONS

400 DRIVE- THROUGH

400.1 No vehicular drive-through is permitted on a lot in any D zone.

401 VEHICULAR ENTRANCES

401.1 In a D zone, a vehicular entrance to a garage or loading area shall be permitted on the face of a building adjacent to a public street only if the District Department of Transportation (DDOT) permits access to the garage entrance or loading area directly from a public street right of way without an intervening alley and:

(a) There is not an improved and accessible alley or alley system that is consistently at least fifteen feet (15 ft.) wide connecting a public street and the building lot's rear or side property line; or

(b) The building is subject to a less restrictive regulation in Subtitle I § 611.13 governing certain streets in the Mount Vernon Triangle Sub-Area.

401.2 A vehicular entrance that does not meet one (1) of the conditions of Subtitle I § 401.1 may be approved by Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9, subject to the following criteria:

(a) There is no practical alternative means of serving the parking, loading, or drop-off needs of the building to be served by the proposed driveway, such as signage approved by DDOT that would direct vehicles to an alternative entrance point within the same square;

(b) The vehicular entrance will not impede the flow of pedestrian traffic on designated primary street frontage; and

(c) The driveway that would access the proposed parking or loading entrance or exit is not inconsistent with DDOT landscape plans for the public rights of way on the designated street frontage, to the extent that such plans exist at the time of the special exception application.

402 SECURITY GRILLES

402.1 Security grilles over windows or doors in a building or structure in any D zone shall have at least seventy percent (70%) transparency in order to reduce the aesthetic impact on the street and, for retail streets, to ensure clear sight lines for pedestrians into the ground story.

403 OPEN ARCADE

403.1 If an open arcade is provided in the D-3 through D-8 zones, it shall extend the length of the entire block frontage, or shall connect with an open arcade in an abutting building in such fashion as to provide a continuous walkway.

404 ADDITIONAL DESIGN-BASED REQUIREMENTS AND PERMISSIONS

404.1 A building on a lot with frontage on a designated street segment is subject to the regulations in Subtitle I, Chapter 6 for the sub-area in which it is located.

CHAPTER 5 REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES

500 INTRODUCTION

500.1 This chapter contains additional regulations that apply within a specific zone and that, in conjunction with the location-based sub-area regulations in Subtitle I, Chapter 6, supplement or modify the general development, use, and design regulations in Subtitle I, Chapters 2, 3, and 4.

500.2 If not otherwise specified in this chapter or Subtitle I, Chapter 6, the general regulations in Subtitle I, Chapters 2, 3, and 4 shall apply.

500.3 If there is a conflict between the regulations that apply throughout the zone and the regulations for a designated street segment within the same zone, the more restrictive regulation applies.

501 PURPOSE AND OBJECTIVE (D-1-R)

501.1 The purpose of the D-1-R zone is to require the provision of high-density housing, with a limited amount of commercial use only on or below the ground floor.

502 DENSITY – FLOOR AREA RATIO (FAR) (D-1-R)

502.1 The maximum permitted FAR for a building in the D-1-R zone shall be 6.0.

502.2 Each lot in the D-1-R zone shall provide the equivalent of at least 2.0 FAR of residential use before any non-residential uses may be permitted on the lot. Unless otherwise regulated by the non-residential density requirements of Subtitle I § 609 for the Chinatown Sub-Area, a building with at least 2.0 FAR on its lot may provide up to 0.5 FAR for non-residential use, which shall be located only on or below the ground floor.

502.3 Residential density in the D-1-R zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 9.

502.4 A building in the D-1-R zone does not generate or receive credits regulated by Subtitle I, Chapters 8 and 9.

503 HEIGHT (D-1-R)

503.1 The maximum permitted building height, not including the penthouse, in the D-1-R zone shall be ninety feet (90 ft.).

503.2 If a building exceeds ninety feet (90 ft.) in height, its frontage on Mount Vernon Square or on Massachusetts Avenue between North Capitol Street and 15th Street N.W. shall be subject to the Massachusetts Avenue Corridor and Mt. Vernon Square Sub-Area regulation in Subtitle I § 610.6.

503.3 The maximum permitted building height, not including the penthouse, in the D-1-R zone shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

503.4 The maximum permitted height of a penthouse shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

503.5 The maximum permitted building height, not including the penthouse, of a building without frontage on a street with a right-of-way width of at least ninety feet (90 ft.), and not subject to Subtitle I § 503.3, shall be the width of the street right of way, plus twenty feet (20 ft.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

504 FRONT BUILD-TO (D-1-R)

504.1 A building in the D-1-R zone shall meet the front build-to requirements of Subtitle I § 203.

505 FRONT SETBACK (D-1-R)

505.1 A front setback shall not be required for a building in the D-1-R zone.

506 USES (D-1-R)

506.1 A building in the D-1-R zone is subject to the use regulations in Subtitle I, Chapter 3 and is not eligible to generate or receive credits otherwise enabled by Subtitle I, Chapters 8 and 9.

506.2 If a non-residential use is permitted in the D-1-R zone, it shall be located on or below the ground floor.

506.3 A building located in both the D-1-R zone and the Chinatown Sub-Area shall not be subject to the use requirements of the Chinatown Sub-Area regulations in Subtitle I § 609, except that a building in the D-1-R zone with frontage on 5th or 6th Streets, N.W. in Square 485 shall meet the general use requirements of Subtitle I § 601 for a designated secondary street segment.

507 DESIGN (D-1-R)

507.1 A building in the D-1-R zone fronting on a designated primary or secondary street shall be subject to the design regulations in Subtitle I § 602.

508 PURPOSE AND OBJECTIVE (D-2)

508.1 The purposes of the D-2 zone are to accommodate high-density housing with a limited amount and type of commercial use on only the ground floor and to ensure the scale of new development is compatible with the scale of the historic areas in the vicinity of lower 16th Street, N.W., 17th Street, N.W. near the White House and Judiciary Square.

509 DENSITY – FLOOR AREA RATIO (FAR) (D-2)

509.1 Residential density is subject to the Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10.

509.2 The maximum permitted FAR for a building in the D-2 zone shall be 6.0 for a building not subject to Inclusionary Zoning and 7.2 FAR for a building that is subject to Inclusionary Zoning.

509.3 The maximum permitted non-residential FAR for a building in the D-2 zone shall be 3.5.

509.4 A building in the D-2 zone is not eligible to generate or receive credits regulated by Subtitle I, Chapters 8 and 9.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

510 HEIGHT (D-2)

510.1 The maximum permitted building height, not including the penthouse, in the D-2 zone shall be one hundred feet (100 ft.) for a building subject to Inclusionary Zoning by Subtitle C, Chapter 10, and ninety feet (90 ft.) for all other buildings.

510.2 The maximum permitted building height, not including the penthouse, in the D-3 zone shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

510.3 The maximum permitted height of a penthouse shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

510.4 The maximum permitted building height, not including the penthouse, of a building without frontage on a street with a right-of-way width of at least ninety

feet (90 ft.), and not subject to Subtitle I § 510.2, shall be the width of the street right of way, plus twenty feet (20 ft.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

511 FRONT BUILD-TO (D-2)

511.1 A building in the D-2 zone is not subject to front build-to regulations.

512 FRONT SETBACK (D-2)

512.1 A front setback shall not be required for a building in the D-2 zone.

513 USES (D-2)

513.1 A building in the D-2 zone is subject to the use regulations in Subtitle I, Chapter 3 and is not eligible to generate or receive credits otherwise enabled by Subtitle I, Chapters 8 and 9.

514 DESIGN (D-2)

514.1 A building in the D-2 zone with frontage on a designated primary or secondary street shall meet the design requirements in Subtitle I § 602.

515 PURPOSE AND OBJECTIVE (D-3)

515.1 The purposes of the D-3 zone are to promote high-density development of commercial and mixed uses in the eastern portion of the District's traditional downtown and, through height restrictions, to respond to federal concerns for the security of the nearby U.S. Capitol and Union Station.

516 DENSITY – FLOOR AREA RATIO (FAR) (D-3)

516.1 The maximum permitted FAR for a building in the D-3 zone shall be 9.0, which can be achieved:

(a) If all FAR is residential;

(b) If all FAR exceeding the non-residential density permitted in Subtitle I § 516.3 is residential; or

(c) If conditions (a) or (b) are not satisfied, through the use of credits pursuant to Subtitle I, Chapters 8 and 9.

516.2 Residential density is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

516.3 The maximum non-residential FAR of a building in the D-3 zone not employing credits enabled by Subtitle I, Chapters 8 and 9 shall be 6.5.

516.4 The density of a building in the D-3 zone constructed as part of a PUD may be increased in accordance with Subtitle X § 303.3.

517 HEIGHT (D-3)

517.1 The maximum permitted building height, not including the penthouse, in the D-3 zone shall be one hundred ten feet (110 ft.), subject to review and restrictions pertinent to the Capitol Security Sub-Area regulated by Subtitle I § 605, for Squares 625, 626, 628, 630, 631 574, 577, 579, 581, 582, 640, and 641; and, for a building with frontage on North Capitol Street, to the requirements for the North Capitol Street Sub-Area regulated by Subtitle I § 617.

517.2 The maximum permitted building height, not including the penthouse in the D-3 zone, shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

517.3 The maximum permitted height of a penthouse shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

517.4 The maximum permitted building height, not including the penthouse, of a building without frontage on a street with a right-of-way width of at least ninety feet (90 ft.), and not subject to Subtitle I § 510.2, shall be the width of the street right of way, plus twenty feet (20 ft.).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

518 FRONT BUILD-TO (D-3)

518.1 A building in the D-3 zone shall meet the front build-to requirements of Subtitle I § 203.

519 FRONT SETBACK (D-3)

519.1 A front setback shall not be required for a building in the D-3 zone.

520 USES (D-3)

520.1 A building in the D-3 zone is subject to the use regulations in Subtitle I, Chapter 3 and may generate or use credits in accordance with Subtitle I, Chapters 8 and 9.

521 DESIGN (D-3)

521.1 A building in the D-3 zone with frontage on a designated primary or secondary street shall meet the design requirements in Subtitle I § 602.

522 REVIEW REQUIREMENTS (D-3)

522.1 A new building or building addition that would be taller than ninety feet (90 ft.) above its measuring point, or that would have a balcony, terrace, or roof deck where the top of surface on which a person would stand is more than ninety feet (90 ft.) above the building's measuring point, and is located in Squares 625, 626, 628, 630, 631 574, 577, 579, 581, 582, 640, or 641 shall be subject to the review requirements for the Capitol Security Sub-Area in Subtitle I § 605.

523 PURPOSE AND OBJECTIVE (D-4)

523.1 The purpose of the D-4 zone is to promote high-density development of commercial and mixed uses in areas with a concentration of federal and infrastructure uses.

524 DENSITY – FLOOR AREA RATIO (FAR) (D-4)

524.1 Residential density is subject to the Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10.

524.2 The maximum permitted FAR for a building in the D-4 zone shall be 7.8, which can be achieved:

(a) If all FAR is residential and accesses the Inclusionary Zoning bonus;

(b) If all FAR exceeding the non-residential density permitted in Subtitle I § 524.4 is residential and accesses the Inclusionary Zoning bonus; or

(c) If conditions (a) or (b) are not satisfied through the use of credits pursuant to Subtitle I, Chapters 8 and 9.

524.3 The maximum permitted residential FAR for a building in the D-4 zone shall be 6.5 for a building not subject to Inclusionary Zoning.

524.4 The maximum permitted non-residential FAR of a building in the D-4 zone not employing credits enabled by Subtitle I, Chapters 8 and 9 shall be 6.5.

525 HEIGHT (D-4)

525.1 With the exception of a building meeting the requirements of Subtitle I § 525.2, the maximum permitted building height, not including the penthouse, for a building in the D-4 zone shall be ninety feet (90 ft.) unless the building does not have frontage on a street with a right-of-way width of at least ninety feet (90 ft.),

in which case the maximum permitted building height, not including the penthouse, shall be the width of the street right of way, plus twenty feet (20 ft.).

525.2 If a building in the D-4 zone fronts on a designated tertiary street segment noted in Subtitle I, Chapter 6 and illustrated in Subtitle I § 603.1, or if the Zoning Commission, pursuant Subtitle I, Chapter 7, permits the building's height to exceed ninety feet (90 ft.), the building shall be subject to the following regulations:

(a) If fronting on Pennsylvania Avenue, N.W., the building and upper story setback requirements and height permissions in Subtitle I § 608.9;

(b) If fronting on Massachusetts Avenue, N.W., the upper story setback requirements in Subtitle I § 610.7;

(c) If fronting on South Capitol Street, S.W., the building and upper story setback requirements in Subtitle I § 616.7;

(d) If fronting on North Capitol Street, N.W., the upper story setback requirements in Subtitle I §§ 617.6 and 617.7; and

(e) If fronting on Independence Avenue, S.W., the building and upper story setback requirements in Subtitle I § 618.5.

525.3 The maximum permitted building height, not including the penthouse, in the D-4 zone shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

525.4 No building that abuts or is across an alley from an R zone lot, or that abuts or is across an alley from an MU zone lot west of the centerline of 20th Street, N.W., shall project above a plane at a forty-five degree (45°) angle from a line that is directly above the zone boundary line between the D zone lot and the R zone lot, at the matter-of-right height permitted for the R zone lot.

525.5 The maximum permitted height of a penthouse shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

526 FRONT BUILD-TO (D-4)

526.1 A building in the D-4 zone is not subject to front build-to regulations, unless it fronts on South Capitol Street and is subject to the regulations in Subtitle I §§ 616.7 or 616.8 for a designated tertiary street segment.

527 FRONT SETBACK (D-4)

527.1 A front setback shall not be required for a building in the D-4 zone except as otherwise regulated by the following regulations for a designated street:

(a) Subtitle I § 616.7 if fronting on M Street, S.E.; and

(b) Subtitle I § 618.5(b) if fronting on Independence Avenue, S.W.

528 USES (D-4)

528.1 A building in the D-4 zone is subject to the use regulations in Subtitle I, Chapter 3 and may generate or receive credits pursuant to Subtitle I, Chapters 8 and 9.

529 DESIGN (D-4)

529.1 A building in the D-4 zone fronting on a designated primary or secondary street shall be subject to the design regulations in Subtitle I § 602.

530 PURPOSE AND OBJECTIVE (D-4-R)

530.1 The purposes of the D-4-R zone are to promote the development of high-density residential and mixed-use neighborhoods on Massachusetts Avenue between Thomas Circle and New Jersey Avenue, N.W.; the Mount Vernon Triangle neighborhood located between New York, New Jersey, and Massachusetts Avenues, N.W.; and the blocks between Massachusetts Avenue, N.W. and Judiciary Square.

531 DENSITY – FLOOR AREA RATIO (FAR) (D-4-R)

531.1 The maximum permitted density for a building in the D-4-R zone shall be the density achievable within the height and bulk permitted by the zone and any applicable sub-area regulations:

(a) If all of the building's FAR is devoted to residential use;

(b) If all FAR exceeding the non-residential density permitted in Subtitle I § 531.5 is devoted to residential use; or

(c) If conditions (a) or (b) are not satisfied, through the use of credits pursuant to Subtitle I, Chapters 8 and 9.

531.2 A building on a lot in the D-4-R zone shall provide a minimum residential FAR of 4.5 on the lot unless:

(a) The residential requirement is reduced or eliminated by the provisions of Subtitle I §§ 200.3, 200.4, 305.2, or 531.3;

(b) The residential requirement is reduced by up to 1.35 FAR through constructing or financially assisting affordable housing pursuant to Subtitle I § 305.6; or

(c) If modified through the credit procedures provided in Subtitle I, Chapters 8 and 9.

531.3 The residential requirement in Subtitle I § 531.2 shall not apply to the following:

(a) A building on Square 342, Lot 810 that has been used as a hostel since April 7, 2006, that remains in hostel use, and which may be expanded or rebuilt to a maximum 9.5 FAR without a housing requirement; and

(b) A building in the D-4-R zoned portion of Square 485.

531.4 Residential density in the D-4-R zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

531.5 The maximum permitted non-residential FAR of a building in the D-4-R zone not employing credits enabled by Subtitle I, Chapters 8 and 9 shall be 3.5.

532 HEIGHT (D-4-R)

532.1 The maximum permitted building height, not including the penthouse, in the D-4-R zone shall be as follows:

Street Right of Way Width	Maximum Permitted Building Height, Not Including Penthouse
Greater than or equal to 110 ft.	130 feet
Less than one 110 ft. but greater than or equal to 100 ft.	120 feet
Less than 100 ft. but greater than or equal to 90 ft.	110 feet
Less than 90 ft.	No taller than the width of the street right of way, plus 20 feet

532.2 The height limits established in Subtitle I § 532.1 shall apply to a building regardless of its employment of the credits enabled by Subtitle I, Chapters 8 and 9.

532.3 A building on a lot in the D-4-R zone with frontage on one (1) or more of the following designated street segments shall also be subject to the height regulations governing the sub-area in which the segment is located:

(a) The Massachusetts Avenue Sub-Area regulations in Subtitle I § 610 apply to properties fronting on Massachusetts Avenue, N.W., between 3rd and 13th Streets, N.W.;

(b) The Blagden Alley Residential Transition Sub-Area regulations in Subtitle I § 613 apply to properties fronting on M Street, N.W. between 9th and 10th Streets, N.W.; and

(c) The Mount Vernon Triangle Principal Intersection Area Sub-Area regulations in Subtitle I § 612, governing exterior and interior heights, apply to properties fronting on portions of the intersection of 5th and K Streets, N.W.

532.4 The maximum permitted building height, not including the penthouse in the D-4-R zone, shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

532.5 The maximum permitted height of a penthouse shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

533 FRONT BUILD-TO (D-4-R)

533.1 A building in the D-4-R zone is subject to the front build-to regulations in Subtitle I § 203.

534 FRONT SETBACK (D-4-R)

534.1 A front setback shall not be required for a building in the D-4-R zone except as otherwise required by the regulations Subtitle I § 612 for a designated primary street segment at the intersection of K and 5th Streets, N.W. in the Mount Vernon Triangle Principal Intersection Area Sub-Area.

535 COURT (D-4-R)

535.1 With the exception of a court fronting the portion of building frontage at the intersection of 5th and K Streets, N.W. that is within the Mount Vernon Triangle Principal Intersection Area Sub-Area, a building in the D-4-R zone shall be governed by the court regulations in Subtitle I § 207.

536 USES (D-4-R)

536.1 A building in the D-4-R zone is subject to the use regulations in Subtitle I, Chapter 3 and may generate or receive credits pursuant to Subtitle I, Chapters 8 and 9.

536.2 A building in the D-4-R zone fronting a designated primary street segment shall meet the use requirements of Subtitle I § 601 and the design requirements of Subtitle I § 602.

536.3 A building in the D-4-R zone fronting a designated primary street segment in the Mount Vernon Triangle Principal Intersection Area Sub-Area shall conform with the use requirements in I Subtitle § 612.

537 DESIGN (D-4-R)

537.1 A building in the D-4-R zone fronting on a designated primary or secondary street segment shall be subject to the design regulations in Subtitle I § 602.

537.2 A building in the D-4-R zone fronting on a designated primary street segment in the Mount Vernon Triangle Principal Intersection Area Sub-Area shall conform with the design requirements in Subtitle I §§ 612.5 and 612.6.

538 PURPOSE AND OBJECTIVE (D-5)

538.1 The purposes of the D-5 zone are to promote high-density development of commercial and mixed uses in areas that had been receiving areas for transferable development rights under Chapter 17 of the 1958 Zoning Regulations.

539 DENSITY – FLOOR AREA RATIO (FAR) (D-5)

539.1 The maximum permitted FAR for a building in the D-5 zone shall be the density achievable within the height and bulk permitted by the zone and any applicable sub-area regulations:

(a) If all of the building's FAR is devoted to residential use;

(b) If all FAR exceeding the non-residential density permitted in Subtitle I § 539.3 is devoted to residential use; or

(c) If conditions (a) or (b) are not satisfied through the use of credits provided for by Subtitle I, Chapters 8 and 9 enable.

539.2 Residential density in the D-5 zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

539.3 The maximum permitted non-residential FAR of a building in the D-5 zone not employing credits in accordance with Subtitle I, Chapters 8 and 9 shall be 6.5.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

540 HEIGHT (D-5)

540.1 The maximum permitted building height, not including the penthouse, in the D-5 zone shall be:

Street Right of Way Width	Maximum Permitted Building Height, Not Including Penthouse
Greater than or equal to 110 ft.	130 feet
Less than 110 ft. but greater than or equal to one 100 ft.	120 feet
Less than 100 ft. but greater than or equal to 90 ft.	110 feet
Less than 90 ft.	No taller than the width of the street right of way, plus 20 feet

540.2 A building on a lot in the D-5 zone with frontage on one (1) or more of the following designated street segments shall also be subject to the height regulations governing the sub-area in which the segment is located:

(a) The Massachusetts Avenue Corridor and Mount Vernon Square Sub-Area regulations in Subtitle I § 610 apply to properties fronting on Massachusetts Avenue, or Mount Vernon Square N.W., between 3rd and 13th Streets, N.W.; and

(b) The Blagden Alley Residential Transition Sub-Area regulations in Subtitle I § 613 apply to properties fronting on M Street, N.W. between 9th and 10th Streets, N.W.

540.3 The maximum permitted building height, not including the penthouse, in the D-5 zone shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

540.4 A building located west of 20th Street shall be subject to the upper story setback regulations in Subtitle I § 201.6.

540.5 The maximum permitted height of a penthouse shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

541 FRONT BUILD-TO (D-5)

541.1 A building in the D-5 zone is subject to the front build-to regulations in Subtitle I § 203.

542 FRONT SETBACK (D-5)

542.1 A front setback shall not be required for a building in the D-5 zone except that a building fronting on a designated primary street segment on 5th or K Streets, N.W. within the Mount Vernon Triangle Principal Intersection Sub-Area shall meet the setback requirements of Subtitle I § 612.

543 PARKING (D-5)

543.1 A new or substantially renovated building in the D-5 zone located on a lot west of 20th Street, N.W. shall provide parking complying with the regulations in Subtitle C, Chapter 7.

543.2 A building in the D-5 zone located on a lot east of 20th Street, N.W. is not required to provide accessory parking, but if it is provided, its provision shall be governed by the parking regulations in Subtitle C, Chapter 7.

544 USES (D-5)

544.1 A building in the D-5 zone is subject to the use regulations in Subtitle I, Chapter 3 and may generate or receive credits pursuant to Subtitle I, Chapters 8 and 9.

544.2 A building in the D-5 zone fronting on a designated primary or secondary street shall be subject to the use regulations in Subtitle I § 601.

544.3 A building in the D-5 zone with frontage on a designated primary street in the North of Massachusetts Avenue (NoMA) Corridor Sub-Area shall be subject to the use regulations in Subtitle I § 615.3.

545 DESIGN (D-5)

545.1 A building in the D-5 zone fronting on a designated primary or secondary street shall be subject to the design regulations in Subtitle I § 602.

546 PURPOSE AND OBJECTIVE (D-5-R)

546.1 The purposes of the D-5-R zone are to promote high-density residential development through housing requirements and incentives in areas near Mount Vernon Square and in the Mount Vernon Triangle while accommodating high-density commercial and mixed-use development.

547 DENSITY – FLOOR AREA RATIO (FAR) (D-5-R)

547.1 The maximum permitted FAR for a building in the D-5-R zone shall be the density achievable within the height and bulk permitted by the zone and any applicable sub-area regulations:

(a) If all of the building's FAR is devoted to residential use;

(b) If all FAR exceeding the non-residential density permitted in Subtitle I § 547.5 is devoted to residential use; or

(c) If conditions (a) or (b) are not satisfied, through the use of credits provided for by Subtitle I, Chapters 8 and 9.

547.2 A building on a lot in the D-5-R zone shall provide a minimum residential FAR of 3.5 on the lot:

(a) Unless the residential requirement is reduced or eliminated by Subtitle I §§ 200.2 or 200.3, or Subtitle I § 547.4;

(b) Unless relieved of a residential requirement by the provisions of Subtitle I § 305.3;

(c) Unless the residential requirement is reduced by up to 1.4 FAR through constructing or financially assisting affordable housing pursuant to Subtitle I § 305.7; or

(d) Unless the requirement is met using the credit procedures enabled by Subtitle I, Chapters 8 and 9.

547.3 Residential density in the D-5-R zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

547.4 Any lot in Square 370 shall be exempt from minimum residential requirements as long as it has a valid construction permit or certificate of occupancy for a hotel.

547.5 The maximum permitted non-residential density of a building in the D-5-R zone not employing credits enabled by Subtitle I, Chapters 8 and 9 shall be 6.0 FAR.

547.6 A building fronting on a designated primary or secondary street in the Chinatown Sub-Area is further governed by the FAR requirements in Subtitle I § 609.

548 HEIGHT (D-5-R)

548.1 The maximum permitted building height, not including the penthouse, in the D-5-R zone shall be:

Street Right of Way Width	Maximum Permitted Building Height, Not Including Penthouse
Greater than or equal to 110 ft.	130 feet
Less than 110 ft. but greater than or equal to 100 ft.	120 feet
Less than 100 ft. but greater than or equal to 90 ft.	110 feet
Less than 90 ft.	No taller than the width of the street right of way, plus 20 feet

548.2 A building on a lot in the D-5-R zone with frontage on one (1) or more of the following designated street segments shall also be subject to the exterior height regulations governing the sub-area in which the segment is located:

(a) The Massachusetts Avenue Corridor and Mt. Vernon Square Sub-Area regulations in Subtitle I § 610 apply to properties fronting Massachusetts Avenue, or Mount Vernon Place N.W., between 6th and 10th Streets, N.W.; and

(b) The Mount Vernon Triangle Principal Intersection Area Sub-Area regulations in Subtitle I § 612, governing exterior and interior heights, apply to properties fronting portions of the intersection of 5th and K Streets, N.W.

548.3 The maximum permitted building height, not including the penthouse, in the D-5-R zone shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

548.4 The maximum permitted height of a penthouse shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

549 FRONT BUILD-TO (D-5-R)

549.1 A building in the D-5-R zone is subject to the front build-to regulations in Subtitle I § 203.

550 FRONT SETBACK (D-5-R)

550.1 A front setback shall not be required for a building in the D-5-R zone except as otherwise required by the regulations Subtitle I § 612 for a designated primary street segment at the intersection of 5th and K Streets, N.W. in the Mount Vernon Triangle Principal Intersection Area Sub-Area.

551 COURT (D-5-R)

551.1 With the exception of a court fronting the portion of building frontage fronting the intersection of 5th and K Streets, N.W. that is within the Mount Vernon Triangle Principal Intersection Area Sub-Area governed by Subtitle I § 612, a building in the D-5-R zone shall be governed by the court regulations in Subtitle I § 207.

552 USES (D-5-R)

552.1 A building in the D-5-R zone is subject to the use regulations in Subtitle I, Chapter 3 and may generate or receive credits pursuant to Subtitle I, Chapters 8 and 9.

552.2 A building in the D-5-R with frontage on a designated primary or secondary street adjacent to Square 425, 428, 429 and 454 in the Chinatown Sub-Area is further governed by the use requirements in Subtitle I § 609.

552.3 A building with frontage on a designated primary street in the Mount Vernon Triangle Principal Intersection Sub-Area at the intersection of 5th and K Streets, N.W. is subject to the additional use regulations in Subtitle I § 612.

553 DESIGN (D-5-R)

553.1 A building in the D-5-R zone with frontage on a designated primary or secondary street shall meet the design requirements in Subtitle I § 602 unless otherwise governed by Subtitle I § 553.2.

553.2 A building in the D-5-R zone fronting on a designated primary street in the Mount Vernon Triangle Principal Intersection Sub-Area is subject to the design regulations in Subtitle I § 612.

554 PURPOSE AND OBJECTIVE (D-6)

554.1 The purposes of the D-6 zone are to permit high-density development of mixed uses in an area bounded generally by New York Avenue, N.W. and M Street, N.W. between 12th and 19th Streets, N.W. and, in conjunction with sub-area use requirements, to promote the retention of a vital retail corridor on lower Connecticut Avenue, N.W.

555 DENSITY – FLOOR AREA RATIO (FAR) (D-6)

555.1 The maximum permitted FAR for a building in the D-6 zone shall be the density achievable within the height and bulk permitted by the zone and any applicable sub-area regulations:

(a) If all of the building's FAR is devoted to residential use;

(b) If all FAR exceeding the non-residential density permitted in Subtitle I § 555.3 is devoted to residential use; or

(c) If conditions (a) or (b) are not satisfied, through the use of credits provided for by Subtitle I, Chapters 8 and 9.

555.2 Residential density in the D-6 zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

555.3 The maximum permitted non-residential FAR of a building in the D-6 zone not employing credits in accordance with Subtitle I, Chapters 8 and 9 shall be 10.0 for a building with frontage on a street with a right-of-way at least one hundred ten feet (110 ft.) wide, and 8.5 FAR for a street with a right-of-way of lesser width.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

556 HEIGHT (D-6)

556.1 The maximum permitted building height, not including the penthouse, in the D-6 zone shall be:

Street Right of Way Width	Maximum Permitted Building Height, Not Including Penthouse
Greater than or equal to 110 ft.	130 feet
Less than 110 ft. but greater than or equal to 100 ft.	120 feet
Less than 100 ft. but greater than or equal to 90 ft.	110 feet
Less than 90 ft.	No taller than the width of the street right of way, plus 20 feet

556.2 A building on a lot in the D-6 zone fronting on Massachusetts Avenue, N.W. shall conform to the height requirements for the Massachusetts Avenue Corridor and Mount Vernon Square Sub-Area in Subtitle I § 610.

556.3 The maximum permitted height of a penthouse shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

557 FRONT BUILD-TO (D-6)

557.1 A building in the D-6 zone is subject to the front build-to regulations in Subtitle I § 203.

558 FRONT SETBACK (D-6)

558.1 A front setback shall not be required for a building in the D-6.

559 USES (D-6)

559.1 A building in the D-6 zone is subject to the use regulations in Subtitle I, Chapter 3 and may generate or receive credits pursuant to Subtitle I, Chapters 8 and 9.

559.2 A building in the D-6 zone fronting on a designated primary or secondary street shall be subject to the use regulations in Subtitle I § 601.

560 DESIGN (D-6)

560.1 A building in the D-6 zone fronting on a designated primary or secondary street shall be subject to the design regulations in Subtitle I § 602.

561 PURPOSE AND OBJECTIVE (D-6-R)

561.1 The purposes of the D-6-R zone are to permit high-density commercial development in the Downtown core while promoting residential development throughout the zone with residential requirements and incentives.

562 DENSITY – FLOOR AREA RATIO (FAR) (D-6-R)

562.1 The maximum permitted density for a building in the D-6-R zone shall be the density achievable within the height and bulk permitted by the zone and any applicable sub-area regulations:

(a) If all of the building's FAR is devoted to residential use;

(b) If all FAR exceeding the non-residential density permitted in Subtitle I § 562.5 is devoted to residential use; or

(c) If conditions (a) or (b) are not satisfied, through the use of credits provided for by Subtitle I, Chapters 8 and 9.

562.2 A building on a lot in the D-6-R zone shall provide a minimum residential density of 2.0 FAR on the lot unless:

(a) Relieved of a residential requirement by the provisions of Subtitle I §§ 305.3, 562.3, or 562.4;

(b) The residential requirement is reduced by up to 0.8 FAR through constructing or financially assisting affordable housing pursuant to Subtitle I § 305.7; or

(c) If modified through the credit procedures enabled by Subtitle I, Chapters 8 and 9, subject to the condition in Subtitle I §§ 200.2 and 200.3.

562.3 Residential density in the D-6-R zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

562.4 Any lot in Square 455 shall be exempt from minimum residential requirements as long as it is occupied by an arena with a valid certificate of occupancy.

562.5 The maximum permitted non-residential density of a building in the D-6-R zone not employing credits enabled by Subtitle I, Chapters 8 and 9 shall be 10.0 FAR for a building fronting on a street with a right-of-way width of at least one hundred ten feet (110 ft.) and 8.5 FAR on a street with a right-of-way of lesser width.

562.6 A building in the D-6-R zone fronting a designated primary or secondary street shall be subject to the following use-related density requirements:

(a) The general primary and secondary street requirements in Subtitle I § 601;

(b) The Chinatown Sub-Area requirements in Subtitle I § 609 if the designated street borders Square 455 north of a line extending eastward from G Place, N.W. between 7th and 6th Streets N.W.;

(c) The Downtown Retail Core Sub-Area in Subtitle I § 606 if the designated street borders Square 377; and

(d) The Downtown Arts Sub-Area requirements in Subtitle I § 607 if the designated street borders:

(1) One (1) of the following Squares: 377, 406, 407, 408, 431, 456, 457, 458, or 459; or

(2) One (1) of the following squares, south of a line extending eastward from G Place, N.W.: 375, 405, 429, 455, or 377.

563 HEIGHT (D-6-R)

563.1 The maximum permitted building height, not including the penthouse, in the D-6-R zone shall be:

Street Right of Way Width	Maximum Permitted Building Height, Not Including Penthouse
Greater than or equal to 110 ft.	130 feet
Less than 110 ft. but greater than or equal to 100 ft.	120 feet
Less than 100 ft. but greater than or equal to 90 ft.	110 feet
Less than 90 ft.	No taller than the width of the street right of way, plus 20 feet

563.2 A building in the D-6-R zone that fronts on Pennsylvania Avenue, N.W. between 4th and 9th Streets, N.W. shall also be subject to the height regulations in Subtitle I § 608.9 governing the Pennsylvania Avenue Sub-Area.

563.3 The maximum permitted height of a penthouse shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

564 FRONT BUILD-TO (D-6-R)

564.1 A building in the D-6-R zone is subject to the front build-to regulations in Subtitle I § 203, unless otherwise governed by a regulation referenced in Subtitle I § 608 for the Pennsylvania Avenue Sub-Area.

565 FRONT SETBACK (D-6-R)

565.1 A front setback shall not be required for a building in the D-6-R zone except when subject to the front setback regulations Subtitle I § 608 for a building fronting on Pennsylvania Avenue, N.W. or otherwise governed by a regulation referenced in Subtitle I § 608.

566 USES (D-6-R)

566.1 A building in the D-6-R zone is subject to the use regulations in Subtitle I, Chapter 3 and may generate or receive credits pursuant to Subtitle I, Chapters 8 and 9.

566.2 A building in the D-6-R zone fronting on a designated primary or secondary street segment shall be subject to the use regulations in Subtitle I § 601 and the sub-area use regulations referenced in Subtitle I §§ 562.6 (a) through (d).

567 DESIGN (D-6-R)

567.1 A building in the D-6-R zone fronting on a designated primary or secondary street shall be subject to the design regulations in Subtitle I § 602.

567.2 A building in the D-6-R zone on a lot in the Pennsylvania Avenue Sub-Area is subject to the design requirements referenced in Subtitle I § 608.

568 PURPOSE AND OBJECTIVE (D-7)

568.1 The purposes of the D-7 zone are to permit high-density commercial development and, in conjunction with sub-area objectives and regulations, to reinforce Pennsylvania Avenue's unique role as a physical and symbolic link between the White House and the U.S. Capitol.

569 DENSITY – FLOOR AREA RATIO (FAR) (D-7)

569.1 The maximum permitted density for a building in the D-7 zone shall be the density achievable within the height and bulk permitted by the zone and any applicable sub-area regulations:

(a) All of the building's FAR is devoted to residential use;

(b) If all FAR exceeding the non-residential density permitted in Subtitle I § 569.3 is devoted to residential use; or

(c) If conditions (a) or (b) are not satisfied through the employment of credits provided for by Subtitle I, Chapters 8 and 9.

569.2 Residential density in the D-7 zone is not subject to the Inclusionary Zoning requirements or bonuses of Subtitle C, Chapter 10.

569.3 The maximum permitted non-residential density of a building in the D-7 zone not employing credits enabled by Subtitle I, Chapters 8 and 9 shall be 10.0 FAR for a building fronting on a street with a right-of-way width of at least one hundred ten feet (110 ft.) and 8.5 FAR on a street with a right-of-way of lesser width.

569.4 A building in the D-7 zone fronting on a designated primary or secondary street shall be subject to the general primary and secondary street use-related density requirements in Subtitle I § 601and, if applicable, the following:

(a) The Chinatown Sub-Area requirements in Subtitle I § 609 if the designated street borders Square 429;

(b) The Downtown Retail Core Sub-Area requirements in Subtitle I § 606 if the designated street borders Square 223, 224, 225, 252, 253, 254, 288, 289, 290, 319, 320, 321, 345, 346, 347, 375, or 376; and

(c) The Downtown Arts Sub-Area regulated by Subtitle I § 607 if the designated Street borders:

(1) One (1) of the following Squares: 254, 290, 291, 321, 322, 342, 348, 375, 376, 378, or 379; or

(2) Square 405 or 429 south of a line extending eastward from G Place, N.W.

570 HEIGHT (D-7)

570.1 The maximum permitted building height, not including the penthouse, in the D-7 zone on a lot fronting on Pennsylvania Avenue, N.W. between 10th and 15th Streets, N.W. shall be one hundred sixty feet (160 ft.), subject to the Pennsylvania Avenue sub-area regulations in Subtitle I § 608.

570.2 The maximum permitted building height, not including the penthouse, in the D-7 zone on a lot fronting on Pennsylvania Avenue, N.W. between 9th and 10th Streets, N.W. shall be one hundred-thirty feet (130 ft.), subject to the Pennsylvania Avenue sub-area regulations in Subtitle I § 608.

570.3 The maximum permitted building height, not including the penthouse, in the D-7 zone on a lot fronting on Pennsylvania Avenue, N.W. between 9th and 10th Streets, N.W. shall be one hundred sixty feet (160 ft.), subject to a Planned Unit Development and the Pennsylvania Avenue sub-area regulations in Subtitle I § 608.

570.4 Subject to any provisions of the Pennsylvania Avenue Development Corporation General Guidelines and Uniform Standards of 1974 as amended, where applicable, the maximum permitted height of a penthouse shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

571 FRONT BUILD-TO (D-7)

571.1 A building in the D-7 zone is subject to the front build-to regulations in Subtitle I § 203 unless otherwise governed by a regulation referenced in Subtitle I § 608 for the Pennsylvania Avenue Sub-Area.

572 FRONT SETBACK (D-7)

572.1 A front setback shall not be required for a building in the D-7 zone except when otherwise subject to the front setback regulations Subtitle I § 608 for a building fronting on Pennsylvania Avenue, N.W. or otherwise governed by a regulation referenced in Subtitle I § 608.

573 USES (D-7)

573.1 A building in the D-7 zone is subject to the use regulations in Subtitle I, Chapter 3 and may generate or receive credits pursuant to Subtitle I, Chapters 8 and 9.

573.2 A building in the D-7 zone fronting on a designated primary or secondary street segment shall be subject to the use regulations in Subtitle I § 601 and, if applicable, the sub-area use regulations referenced in Subtitle I §§ 569.4(a) through (c).

574 DESIGN (D-7)

574.1 A building in the D-7 zone fronting on a designated primary or secondary street shall be subject to the design regulations in Subtitle I § 602.

574.2 A building in the D-7 zone on a lot in the Pennsylvania Avenue Sub-Area is subject to the design requirements referenced in Subtitle I § 608.

575 PURPOSE AND OBJECTIVE (D-8)

575.1 The purposes of the D-8 zone are to permit high-density development, to foster the transition of a federally-owned area south of the National Mall into a mixed-use area of commercial, residential, cultural, arts, retail, and service uses with both public and private ownership, and to promote greater pedestrian and vehicular connectivity with an emphasis on re-establishing connections that have been compromised by previous street closings, vacations, obstructing construction, or changes in jurisdiction.

575.2 In the D-8 zone, other than transportation-or utility-related construction, approved monuments and memorials, and permitted building projections, no structure, building or building addition may be constructed above the grade of a street right-of-way that was included in the 1791 L'Enfant Plan for the City of Washington, regardless of whether or not it has been closed by an act of the Council of the

District of Columbia or its predecessor bodies or whether a building has been constructed within it, with the exception of the following rights of way:

(a) 8th Street, S.W. between Independence Avenue, S.W. and D Street, S.W.; and

(b) D Street, S.W., between the L'Enfant Promenade/10th Street, S.W. and 12th Street, S.W.

575.3 The restrictions in Subtitle I § 575.2 may be modified by the Zoning Commission pursuant to an application for special exception approval consistent with Subtitle X, Chapter 9 and the procedures and criteria in Subtitle I § 581.

576 DENSITY – FLOOR AREA RATIO (FAR) (D-8)

576.1 The maximum permitted density for a building in the D-8 zone shall be the density achievable within the height and bulk permitted by the zone and any applicable sub-area regulations, provided the building meets the requirements of Subtitle I § 575.2, and:

(a) If all of the building's FAR is devoted to residential use;

(b) If all FAR exceeding the non-residential density permitted in Subtitle I §576.4 is devoted to residential use; or

(c) If conditions (a) or (b) are not satisfied through the employment of credits provided for by Subtitle I, Chapters 8 and 9.

576.2 If the conditions of Subtitle I § 576.1(a) through (c) are not satisfied, a special exception from the Zoning Commission pursuant to Subtitle X, Chapter 9 and Subtitle I § 581 may be requested.

576.3 Residential density in the D-8 zone is subject to the Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10.

576.4 The maximum permitted non-residential density for a building in the D-8 zone that meets the requirements of Subtitle I § 575.2, but does not meet the conditions in Subtitle I § 576.1, shall be 6.5 FAR, unless a greater FAR is approved by the Zoning Commission consistent with Subtitle I § 581.

576.5 For a project subject to Subtitle I § 576.1, the determination of the potential maximum gross square footage of the project shall not include the land area of:

(a) An existing street right-of-way; or

(b) A street right-of-way that has not been officially closed by an act of the Council of the District of Columbia or its predecessor bodies, even if a building has already been constructed in it.

576.6 A historic landmark or a contributing building in a historic district is subject to the requirements, permissions, and conditions of Subtitle I §§ 200.2 and 200.3.

577 HEIGHT (D-8)

577.1 The maximum permitted building height, not including the penthouse, in the D-8 zone shall be:

Street Right of Way Width	Maximum Permitted Building Height, Not Including Penthouse
Greater than or equal to 110 ft.	130 feet
Less than 110 ft. but greater than or equal to 100 ft.	120 feet
Less than 100 ft. but greater than or equal to 90 ft.	110 feet
Less than 90 ft.	No taller than the width of the street right of way, plus 20 feet

577.2 The maximum permitted building height, not including the penthouse, for a project that includes land within a street right-of-way that has been closed by action of the Council of District of Columbia and that has not been incorporated into the District of Columbia official highway plan shall be one hundred ten feet (110 ft.) unless otherwise permitted by the Zoning Commission as provided for in Subtitle I § 581.

577.3 A building in the D-8 zone that fronts on Independence Avenue, S.W. between 6th Street and 12th Street, S.W. shall also be subject to the height regulations in Subtitle I § 618 governing the Independence Avenue Sub-Area and subject to Subtitle I § 581.

577.4 The maximum permitted height of a penthouse shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

578 FRONT BUILD-TO (D-8)

578.1 With the exception of a building fronting on Independence Avenue, S.W. and subject to the Independence Avenue Sub-Area regulations in Subtitle I § 618, a building in the D-8 zone is subject to the front build-to regulations in Subtitle I § 203.

579 FRONT SETBACK (D-8)

579.1 A front setback shall not be required for a building in the D-8 zone except when otherwise subject to the front setback regulations Subtitle I § 618 for a building fronting on Independence Avenue, S.W.

580 USES (D-8)

580.1 A building meeting the requirements of Subtitle I § 575.2 is governed by the use regulations in Subtitle I, Chapter 3 and may generate or receive credits pursuant to Subtitle I, Chapters 8 and 9.

581 SPECIAL EXCEPTION (D-8)

581.1 All proposed uses, new buildings, and new structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the existing exterior design, shall be subject to review and approval by the Zoning Commission as a special exception in accordance with the provisions of Subtitle X, Chapter 9 and Subtitle I §§ 581.2 through 581.5, and, for locations not subject to review by the Commission of Fine Arts and for locations fronting on Independence Avenue between 2nd and 12th Streets, N.W., shall be referred to the National Capital Planning Commission for review and comment.

581.2 The reviewing body shall consider whether the proposed project – including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation – will help achieve the objectives of the Maryland Avenue Small Area Plan approved June 26, 2012, and its related or successor plans. The objectives to be considered include:

(a) Building height, mass, and siting shall respect or re-establish vistas to the U.S. Capitol, the Washington Monument, and the Smithsonian Institution's original building;

(b) Greater connectivity shall be achieved for pedestrians and vehicles both within the area and the adjacent area and shall be based on historic street rights-of-way, particularly including:

(1) Maryland Avenue, S.W. and the former right-of-way of that avenue between 6th and 12th Streets, S.W.;

(2) C Street, S.W., between 7th and 12th Streets, S.W.; and

(3) 12th Street, S.W., 11th Street, S.W., and the L'Enfant Promenade/10th Street, S.W., between Independence Avenue, S.W and D Street, S.W.;

(c) Conflicts between vehicles and pedestrians shall be minimized;

(d) Unarticulated blank walls adjacent to public spaces shall be minimized through facade articulation;

(e) Ground floor retail spaces shall have a clear height of least fourteen feet (14 ft.) if adjacent to major streets;

(f) The project shall minimize impacts on the environment, as demonstrated through the provision of an evaluation of the proposal against GAR requirements and LEED Gold certification standards; and

(g) Rooftop structures, architectural embellishments, and penthouses should be carefully located and designed to not compete with the architectural features of the Smithsonian Institution's original building when viewed from its center point on the National Mall and from 10th Street, S.W.

581.3 Construction or substantial renovation of a building or structure that would include an area restricted by Subtitle I § 575.2 may be permitted only if the Zoning Commission has given approval as a special exception under Subtitle X, Chapter 9, subject to the following determinations:

(a) The exclusion of the property, right-of-way, or former right-of-way from permanent public access, or the inclusion of the property in a private development site is integral and beneficial to the provision of transportation infrastructure or improvements within or immediately adjacent to the boundaries of the D-8 zone, with such infrastructure or improvements including, but not being not limited to: dedication and/or construction of a public street; maintenance of a street median in the zone; provision of a public easement for a pedestrian walkway within the zone that would not otherwise be required; mass transit improvements within the zone, including, but not limited to, the accommodation and/or construction of a connection to a mass transit station; and the buildings or buildings to be constructed or substantially renovated on the property are in compliance with all other applicable regulations in Subtitle I;

(b) The Director of DDOT has determined that:

(1) The land within an existing or historic right-of-way on which the project would be constructed has been determined to not be essential to the District's future vehicular or pedestrian network; or

(2) An acceptable, enforceable agreement has been executed for achieving pedestrian or vehicular connectivity in a location other than one regulated under Subtitle I § 575.2.; and

(c) The proposed building, and any height in excess of one hundred ten feet (110 ft.) not including a penthouse, would be consistent with the criteria established for review in Subtitle § 581.3:

(3) Contain(s) only residential uses or arts uses above the building's ground floor, or the property has received credits under the terms of Subtitle I, Chapter 9 that would enable access to gross square footage exceeding 6.5 FAR for uses that are neither residential nor cultural; and

(4) Is consistent with the criteria established for review in Subtitle § 581.3;

581.4 When granting approval under Subtitle I §§ 581.1, 581.2, or 581.3, the Zoning Commission shall not reduce access to bonus density for a project that has demonstrated compliance with all applicable regulations.

581.5 As part of the special exception to be considered under Subtitle I § 581, the Zoning Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property. Such requests shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

CHAPTER 6 LOCATION-BASED REGULATIONS FOR DOWNTOWN SUB-AREAS AND DESIGNATED STREET SEGMENTS

600 INTRODUCTION

600.1 This chapter contains zoning regulations intended, to assist in achieving goals established by the Comprehensive Plan, Small Area Plans, or prior versions of this subtitle for specific geographic locations within the area encompassed by the downtown zones. Each sub-area may include multiple zone districts.

600.2 In the sub-areas the general use and design regulations for D zones are supplemented by additional use or design permissions, restrictions, or requirements. These vary by the geographic sub-area locations described in Subtitle I §§ 606 through 618. The sub-area use and design regulations are applied to sites based on their adjacency to a side or sides of certain designated segments of street rights-of-way.

600.3 The objectives of designating sub-areas and street segments, requirements, and permissions are to:

(a) Strengthen retail, arts, and other preferred uses, through the establishment of a hierarchy of primary and secondary designated streets;

(b) Enhance pedestrian environments;

(c) Foster the building of open spaces and neighborhood centers;

(d) Establish principal intersections as focal points for neighborhoods;

(e) Establish massing transitions between areas with different uses or scales; and

(f) Create upper story setbacks through the designation of other designated street segments to protect important vistas highlighted in the Comprehensive Plan.

600.4 Designated street segments with the same classification generally have similar use and design requirements or permissions, but may also be modified by sub-area requirements as generally summarized below:

(a) Designated primary street segments of Figure I § 601(a): Illustration of Designated Primary Street Segments generally have the most intensive use and design requirements, including strict regulations governing vehicular entrance openings;

(b) Designated secondary street segments of Figure I § 601(b): Illustration of Designated Secondary Street Segments have similar use regulations as

primary street segments, but often with less FAR requirements for certain uses, and less restrictive regulations governing ground floor heights and vehicular entrances/exits facing onto a designated secondary street; and

(c) Designated tertiary street segments of Figure I § 603.1: Illustration of Designated Tertiary Street Segments are generally regulated for upper story setbacks and are detailed within the regulations for individual sub-areas. Sub-area regulations begin in Subtitle I § 606.

600.5 If a lot faces more than one (1) designated street segment, each frontage is governed by the corresponding regulations for that designated street segment.

600.6 For a structure with frontage on a designated primary, secondary, or other street segment listed in this chapter, an applicant for a building permit or a certificate of occupancy involving ten thousand square feet (10,000 sq. ft.) or more shall provide a copy of the application, or those portions of the application affected by the D zone provisions, to the Director of the Office of Planning at the time of filing with the Zoning Administrator. The Director shall, within ten (10) business days of the filing, provide the Zoning Administrator with a memorandum setting forth the Office of Planning's interpretation of the application's compliance with the regulations of the relevant D zones.

601 GENERAL USE REQUIREMENTS FOR BUILDINGS ON PRIMARY AND SECONDARY DESIGNATED STREET SEGMENTS

FIGURE I § 601(a): ILLUSTRATION OF DESIGNATED PRIMARY STREET SEGMENTS

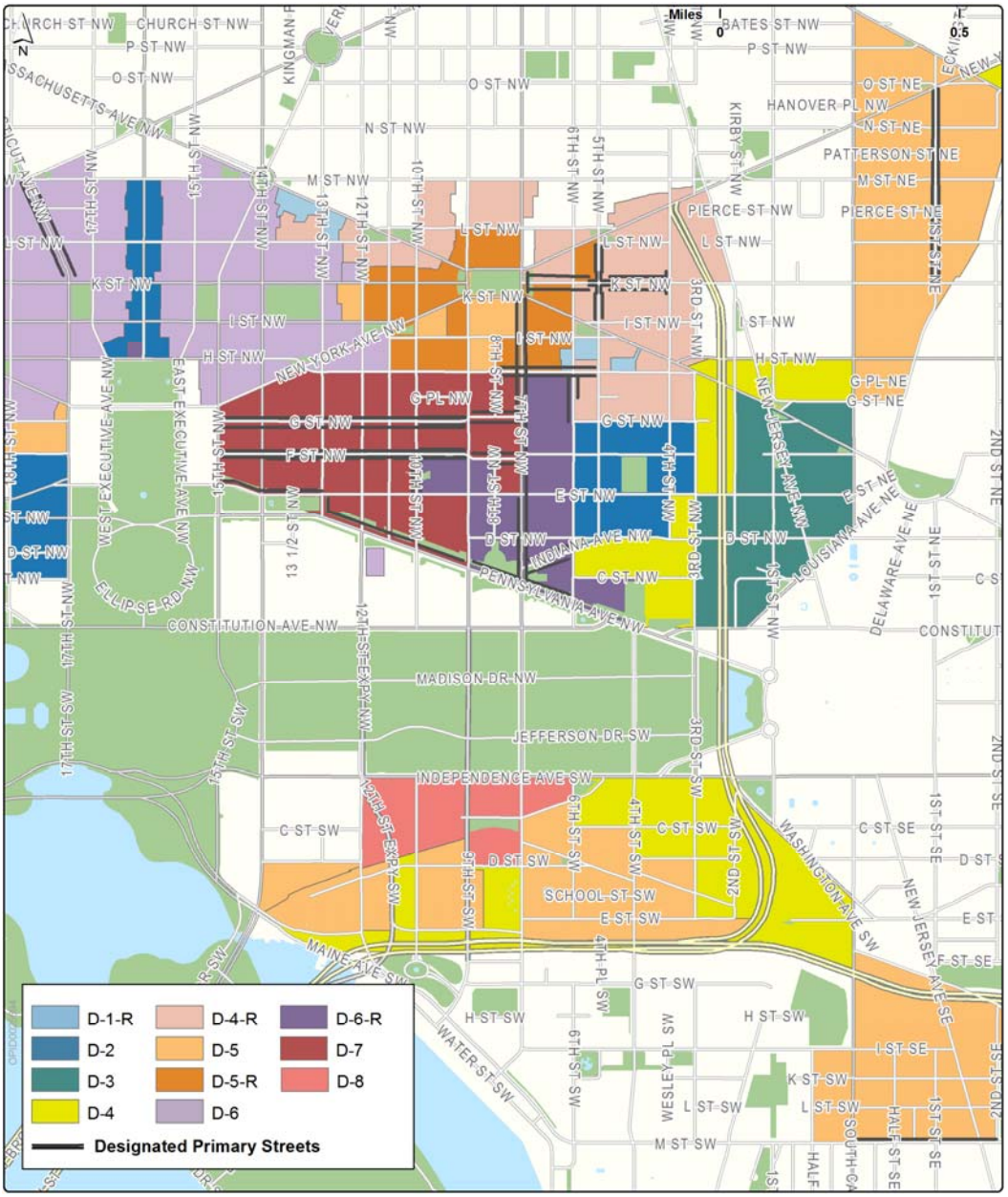
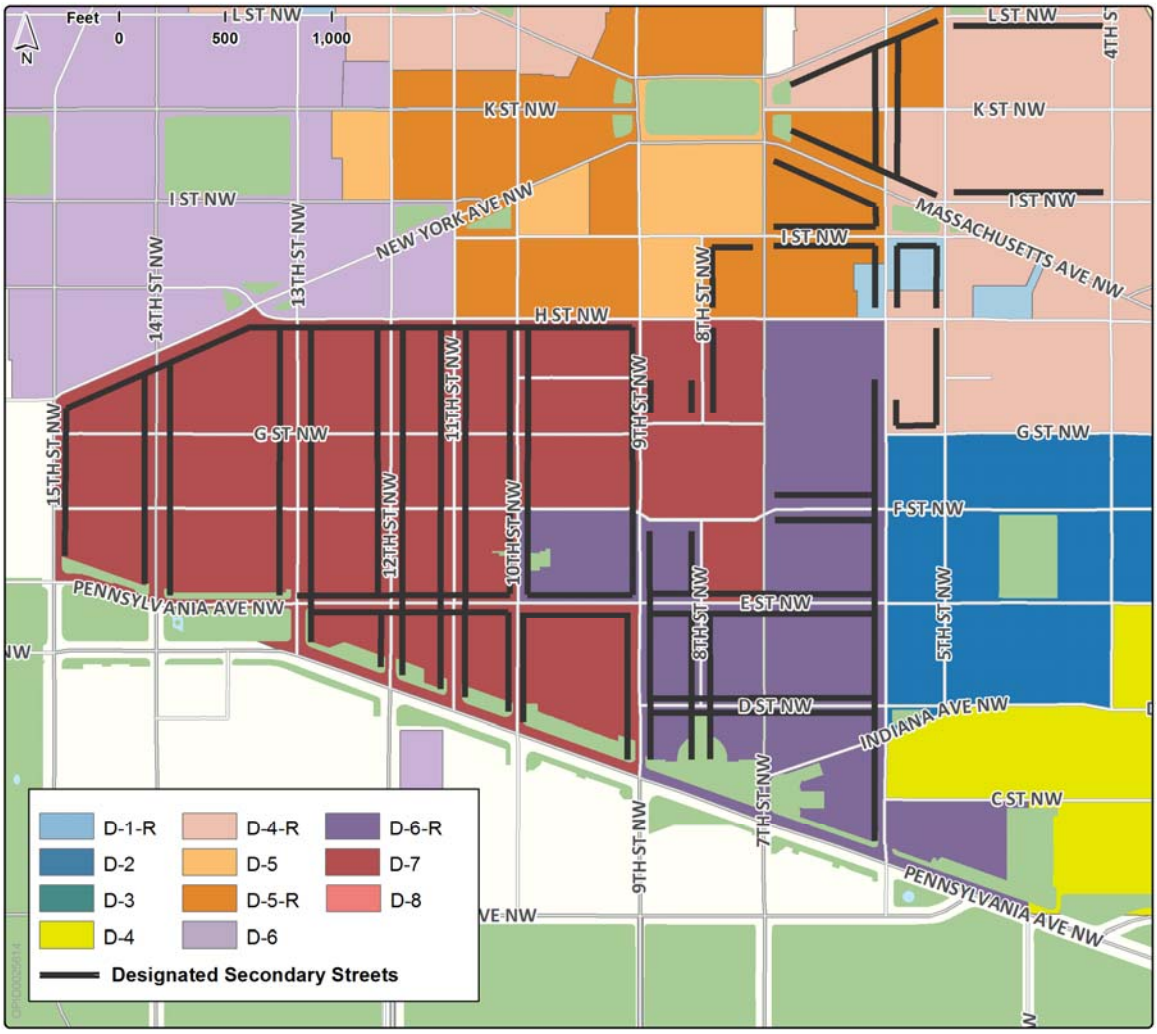


FIGURE I § 601(b): ILLUSTRATION OF DESIGNATED SECONDARY STREET SEGMENTS



601.1 The use requirements in Subtitle I § 601 shall apply to a building or structure on a lot with frontage on a designated primary or a secondary street segment unless otherwise modified within this section or by the use requirements for a designated street segment in a particular sub-area.

601.2 A building or structure with frontage on a primary or a secondary designated street segment shall, unless otherwise modified within this section or by the use requirements for a designated street segment in a particular sub-area:

(a) Devote not less than fifty percent (50%) of the ground floor gross floor area to one (1) or more of the following use categories:

(1) Retail;

(2) Entertainment, assembly, and performing arts;

(3) Eating and drinking establishments;

(4) Arts, design, and creation; or

(5) Services, including both general and financial services;

(b) Devote no more than twenty percent (20%) of the ground floor gross floor area uses required in Subtitle I § 601.2(a) to services (financial), fast food establishment, travel, or ticket offices; and

(c) Devote one hundred percent (100%) of the building's street frontage along the primary designated street segment to required uses identified in Subtitle I § 601.2(a) except for space required for fire control or devoted to building entrances for pedestrians, or for vehicular parking and loading entrances that are:

(1) Permitted by Subtitle I § 610.4 within the Massachusetts Avenue and Mount Vernon Square Sub-Area;

(2) Required by DDOT; or

(3) Permitted by the Board of Zoning Adjustment by special exception evaluated according to Subtitle I § 601.2(a).

601.3 The requirements of Subtitle I § 601.2 shall not apply to buildings devoted entirely to residential uses, theaters, or places of worship.

601.4 The net leasable area occupied by the uses required on primary or secondary designated street segments, or uses generating credits pursuant to Subtitle I, Chapter 8, shall be no less than eighty percent (80%) of the gross floor area allocated to these uses.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

602 GENERAL DESIGN REQUIREMENTS FOR BUILDINGS ON PRIMARY AND SECONDARY DESIGNATED STREET SEGMENTS

602.1 With the exception of buildings devoted entirely to residential uses, or to theaters, historically designated buildings, or places of worship, the following design requirements shall apply to the portion of a building or structure with frontage on a primary or secondary designated street segment unless otherwise modified by the design requirements of this section or the requirements for a designated street segment in a sub-area:

(a) The ground floor shall have a minimum clear height of fourteen feet (14 ft.) for a continuous depth of at least thirty-six feet (36 ft.) from the

building line on a designated primary, but not a designated secondary, street segment;

(b) The ground story shall devote at least fifty percent (50%) of the surface area facing a designated primary or secondary street segment to display windows or pedestrian entrances having clear low-emissivity glass, and ensure that the view through the display windows and pedestrian entrances is not blocked for at least ten feet (10 ft.) in from the building face; and

(c) Ground floor pedestrian entrances, or areas where a future ground floor entrance could be installed without structural changes, shall be located no more than an average distance of forty feet (40 ft.) apart on the façade facing the designated primary or secondary street segment. In no case shall there be less than one (1) door.

602.2 No vehicular garage or loading entrance or exit shall be permitted in the portions of façades adjacent to a designated primary street, unless it is:

(a) On a designated primary street segment listed in the Mount Vernon Triangle Sub-Area pursuant to Subtitle I § 611, for which vehicular garage or loading entrances and exits are governed by Subtitle I §§ 611.6 through 611.10;

(b) Required by DDOT; or

(c) Permitted by the Board of Zoning Adjustment as a special exception evaluated by the criteria in Subtitle I § 602.3.

602.3 Exceptions from the prohibitions and limitations of Subtitle I § 602.2 shall be permitted if granted by the Board of Zoning Adjustment as a special exception, provided the applicant demonstrates that:

(a) There is no practical alternative means of serving the parking, loading, or drop-off needs of the building to be served by the proposed driveway, such as signage approved by DDOT, that would direct vehicles to an alternative entrance point within the same square;

(b) The vehicular entrance will not impede the flow of pedestrian traffic on designated primary street frontage; and

(c) The driveway that would access the proposed parking or loading entrance or exit is not inconsistent with DDOT landscape plans for the public rights of way on the designated street frontage, to the extent that such plans exist at the time of the special exception application.

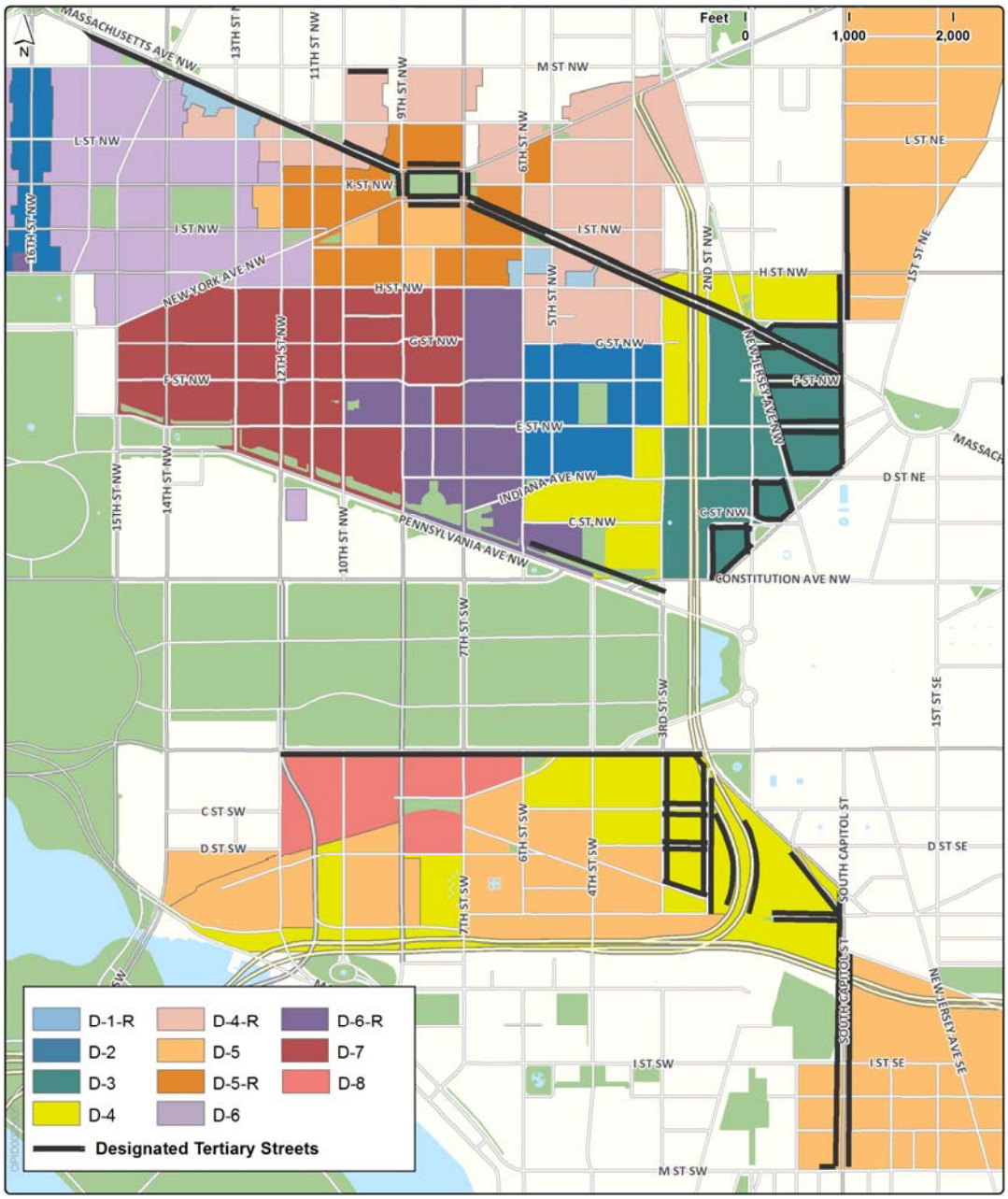
602.4 Exceptions from the prohibitions and limitations of Subtitle I § 602.1(a) shall be permitted for structures existing prior to the effective date of this title if the Zoning Administrator determines that the slab-to-slab height of the existing

structure's first or second floor would have to be structurally altered in order to meet the requirement.

603 BUILDINGS ON DESIGNATED TERTIARY STREETS: GENERAL USE AND DESIGN REQUIREMENTS

603.1 Figure I § 603.1 illustrates the designated tertiary street segments:

FIGURE I § 603.1: ILLUSTRATION OF DESIGNATED TERTIARY STREET SEGMENTS



603.2 There are no use regulations specific to frontage on any designated tertiary street segment, with the following exceptions:

(a) A building with frontage on the south side of the 600 block of Massachusetts Avenue, N.W. is also subject to the designated secondary street segment use regulations in Subtitle I § 601 and in the Chinatown Sub-Area in Subtitle I § 609; or

(b) A building with frontage on the north side of the 500 or 600 block of Massachusetts Avenue, N.W. is also subject to the designated secondary street segment use regulations in Subtitle I § 601 and the design regulations in the Mount Vernon Triangle Sub-Area in Subtitle I § 611,

603.3 Modifications to dimensional requirements for designated tertiary street segments are located in the regulations for the following sub-areas:

(a) The Capitol Security Sub-Area in Subtitle I § 605;

(b) The Massachusetts Avenue Corridor and Mount Vernon Square Sub-Area in Subtitle I § 610;

(c) The Mount Vernon Triangle Sub-Area in Subtitle I § 611 for the north side of the 500 and 600 blocks of Massachusetts Avenue, N.W.;

(d) The Blagden Alley Residential Transition Area Sub-Area in Subtitle I § 613 for the south side of the 900 block of M Street, N.W.;

(e) The South Capitol and M Streets Sub-Area in Subtitle I § 616; and

(f) The North Capitol Street Sub-Area in Subtitle I § 617.

604 GEOGRAPHIC SUB-AREAS IN DOWNTOWN

604.1 The following table lists the geographic sub-areas of downtown and their corresponding sections:

TABLE I § 604: GEOGRAPHIC SUB-AREAS OF DOWNTOWN AND SECTION REFERENCE

Sub-Areas of Downtown	Section
Capitol Security	Subtitle I § 605
Downtown Retail Core	Subtitle I § 606
Downtown Arts	Subtitle I § 607
Pennsylvania Avenue	Subtitle I § 608
Chinatown	Subtitle I § 609
Massachusetts Avenue Corridor and Mt. Vernon Square	Subtitle I § 610
Mount Vernon Triangle (MVT)	Subtitle I § 611
Mount Vernon Triangle Principal Intersection Area (MVT/PIA)	Subtitle I § 612

Sub-Areas of Downtown	Section
Blagden Alley Residential Transition Area	Subtitle I § 613
Lower Connecticut Avenue Corridor	Subtitle I § 614
North of Massachusetts Avenue (NoMA) Corridor	Subtitle I § 615
South Capitol and M Streets	Subtitle I § 616
North Capitol Street	Subtitle I § 617
Independence Avenue, S.W.	Subtitle I § 618

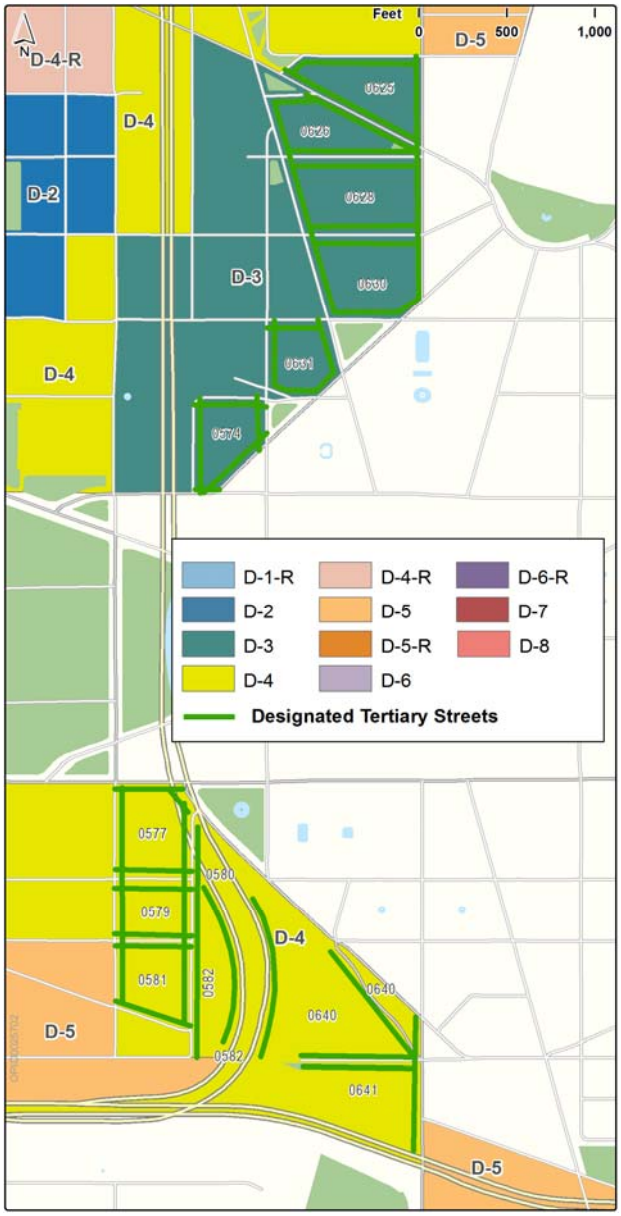
605 CAPITOL SECURITY SUB-AREA

605.1 The objectives of the Capitol Security Sub-Area are to protect public safety and the security of those using the properties within the U.S. Capitol complex and associated office buildings and libraries.

605.2 The general location of the Capitol Security Sub-Area is the area adjacent to the northwest and southwest perimeter of the U.S. Capitol grounds, including all of Squares 625, 626, 628, 630, 631 574, 577, 579, 581, 582, 640, and 641, as outlined in Figure I § 605: Illustration of Capitol Security Sub-Area and Designated Street Segments. Review of this sub-area is required by the Architect of the Capitol or the Capitol Police.

605.3 The designated street segments are as generally indicated with green lines in Figure I § 605: Illustration of Capitol Security Sub-Area and Designated Street Segments and are detailed in Subtitle I § 605.4.

FIGURE I § 605: ILLUSTRATION OF CAPITOL SECURITY SUB-AREA AND DESIGNATED STREET SEGMENTS



605.4 The Capitol Security Sub-Area includes the following designated street segments and adjacent zoning:

TABLE I § 605.4: CAPITOL SECURITY SUB-AREA DESIGNATED STREET SEGMENTS AND ADJACENT ZONING

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
G St., N.W.	South	D-3	North Capitol St., N.W.	New Jersey Ave., N.W.	Tertiary
Massachusetts Ave., N.W.	North	D-3	North Capitol St., N.W.	New Jersey Ave., N.W.	Tertiary
Massachusetts Ave., N.W.	North	D-3	North Capitol St., N.W.	G St., N.W.	Tertiary
F St., N.W.	Both	D-3	North Capitol St., N.W.	New Jersey Ave., N.W.	Tertiary
E St., N.W.	Both	D-3	North Capitol St., N.W.	New Jersey Ave., N.W.	Tertiary
D St., N.W.	North	D-3	North Capitol St., N.W.	New Jersey Ave., N.W.	Tertiary
C St., N.W.	North	D-3	New Jersey Ave., N.W.	1st St., N.W.	Tertiary
C St., N.W.	South	D-3	1st St., N.W.	2nd St., N.W.	Tertiary
Constitution Ave., N.W.	North	D-3	1st St., N.W.	2nd St., N.W.	Tertiary
Independence Ave., S.W.	South	D-4	2nd St., S.W.	3rd St., S.W.	Tertiary
C St., S.W.	Both	D-4	2nd St. S.W.	3rd St., S.W.	Tertiary
C St., S.W.	South	D-4	Washington Ave., N.W.	2nd St., S.W.	Tertiary
D St., S.W.	Both	D-4	2nd St., S.W.	3rd St., S.W.	Tertiary
Virginia Ave., S.W.	North	D-4	2nd St., S.W.	3rd St., S.W.	Tertiary
Virginia Ave., S.W.	North	D-4	South Capitol St., S.W.	2nd St., S.W.	Tertiary
E St., S.W.	Both	D-4	South Capitol St., S.W.	1st St., S.W.	Tertiary
Washington Ave., S.W.	South	D-4	Independence Ave., S.W.	South Capitol St., S.W.	Tertiary
North Capitol St., N.W.	West	D-3	G St., N.W.	D St., N.W.	Tertiary
South Capitol St., S.W.	West	D-4	Washington Ave., S.W.	Virginia Ave.,/ I-395, S.W.	Tertiary
New Jersey Ave., N.W.	East	D-3	G St., N.W.	D St., N.W.	Tertiary
1st St., N.W.	East	D-3	D St., N.W.	C St., N.W.	Tertiary
1st St., N.W.	West	D-3	C St., N.W.	Constitution Ave., N.W.	Tertiary
1st St., S.W./I-395 ramps	Both	D-4	D St., S.W.	Virginia Ave., S.W.	Tertiary
2nd St., N.W.	East	D-3	C St., N.W.	Constitution Ave., S.W.	Tertiary

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
2nd St., S.W.	West	D-4	Independence Ave., S.W.	D St., S.W.	Tertiary
2nd St., S.W.	Both	D-4	D St., S.W.	E St., S.W.	Tertiary
3rd St., S.W.	East	D-4	Independence Ave., S.W.	Virginia Ave., S.W.	Tertiary

605.5 Within the Capitol Security Sub-Area, the use regulations of the zone shall govern.

605.6 In the Capitol Security Sub-Area, a proposed new structure or existing structure proposed for substantial renovation shall be considered as a special exception consistent with Subtitle X, Chapter 9 and the criteria in Subtitle I §§ 605.7 through 605.10, if:

(a) The lot has frontage on a designated street segment in the sub-area and the building has a proposed or existing height of ninety feet (90 ft.) or more; and

(b) It is of any height and includes roof decks, terraces, or balconies.

605.7 In an application for a special exception subject to this section, the Board of Zoning Adjustment shall also consider whether the proposed development is:

(a) Compatible with the present and proposed development of the neighborhood;

(b) Consistent with the goals and mandates of the United States Congress in Title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288); and

(c) Does not present a security risk to the grounds under the authority of the Architect of the Capitol.

605.8 Upon receipt of the application, the Board of Zoning Adjustment shall submit the application to the Architect of the Capitol for review and report.

605.9 Upon receipt of the application, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing of all relevant District departments and agencies including the Departments of Transportation, Housing and Community Development, and, if a historic district or historic landmark is involved, the Historic Preservation Office.

605.10 The Board of Zoning Adjustment may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impacts identified in the consideration of the application.

606 DOWNTOWN RETAIL CORE SUB-AREA

606.1 The objectives of the Downtown Retail Core Sub-Area are to create the highest concentrations of retail, arts, and street-activating uses within the D zones, to achieve continuous provision of these uses, employ design standards that ensure buildings reinforce and activate pedestrian areas through continuous street frontages, generous display windows, frequent pedestrian entrances, and designated street-facing entrances for parking and loading only when necessary.

606.2 The general location of the retail core is between 9th and 15th streets, N.W., between E and H Streets, N.W., including Squares 223, 224, 225, 252, 253, 254, 288, 289, 290, 319, 320, 321, 345, 346, 347, 375, 376, and 377, as outlined in in Figure I § 606: Illustration of the Downtown Retail Core Sub-Area and Designated Street Segments.

606.3 The designated street segments are as generally indicated with red or blue lines in Figure I § 606: Illustration of the Downtown Retail Core Sub-Area and Designated Street Segments, and are detailed in Subtitle I § 606.4:

FIGURE I § 606: ILLUSTRATION OF THE DOWNTOWN RETAIL CORE SUB-AREA AND DESIGNATED STREET SEGMENTS

606.4 The Downtown Retail Core Sub-Area includes the following designated street segments and adjacent zoning:

TABLE I § 606.4: DOWNTOWN RETAIL CORE SUB-AREA DESIGNATED STREET SEGMENTS AND ADJACENT ZONING

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
9th St., N.W.	West	D-6	H St., N.W.	E St., N.W.	Secondary
10th St., N.W.	Both	D-6	H St., N.W.	F St., N.W.	Secondary
10th St., N.W.	Both	D-6	F St., N.W.	E St., N.W.	Primary
11th St., N.W.	Both	D-6	H St., N.W.	E St., N.W.	Secondary
12th St., N.W.	Both	D-6	H St., N.W.	E St., N.W.	Secondary
13th St., N.W.	Both	D-6, D-7	H St., N.W.	E St., N.W.	Secondary
14th St., N.W.	Both	D-6, D-7	New York Ave., N.W.	E St. / Pennsylvania Ave., N.W.	Secondary
15th St., N.W.	East	D-6, D-7	New York Ave., N.W.	Pennsylvania Ave., N.W.	Secondary
Pennsylvania Ave., N.W. (including E Street)	North	D-7	13th St., N.W.	15th St., N.W.	Primary
E St., N.W.	North	D-6, D-6-R	9th St., N.W.	13th St., N.W.	Secondary
F St, N.W.	Both	D-6, D-7	9th St., N.W.	15th St., N.W.	Primary
G St., N.W.	Both	D-6	9th St., N.W.	15th St., N.W.	Primary
H St., N.W.	South	D-6	9th St., N.W.	New York Ave., N.W.	Secondary
New York Ave., N.W.	South	D-6	13th St., N.W.	15th St., N.W.	Secondary

606.5 A building with frontage on a designated primary or secondary street segment is subject to the general use regulations in Subtitle I § 601, unless otherwise noted in this section or subtitle.

606.6 If a building has frontage on one (1) of the following streets, fifty percent (50%) of the use requirements shall be met by the provision of arts uses or entertainment, assembly, and performing arts uses, as defined in Subtitle B:

(a) The north side of E Street, N.W. between 10th and 13th Streets, N.W.;

(b) The north side of Pennsylvania Avenue, N.W. (including E Street, N.W.) between 13th and 14th Streets, N.W.;

(c) The south side of F Street, N.W. between 10th and 14th Streets, N.W.;

(d) The north and south side of G Street, N.W. between 9th and 10th Streets, N.W.;

(e) The west side of 9th Street, N.W. between E and F Streets, N.W.;

(f) The east and west sides of 11th, 12th, and 13th Street, N.W. between E and F Streets, N.W.; and

(g) The east side of 14th Street, N.W. between E and F Streets, N.W.

606.7 A building with frontage on Pennsylvania Avenue, N.W. is subject to the height regulations of Subtitle I §§ 608.9 and 608.10.

606.8 A building located on Square 225 or 254 is also subject to the Pennsylvania Avenue Development Corporation (PADC) Plan of 1974, as amended.

606.9 A building with frontage on a designated primary or secondary street segment shall also be subject to Subtitle I § 608.10.

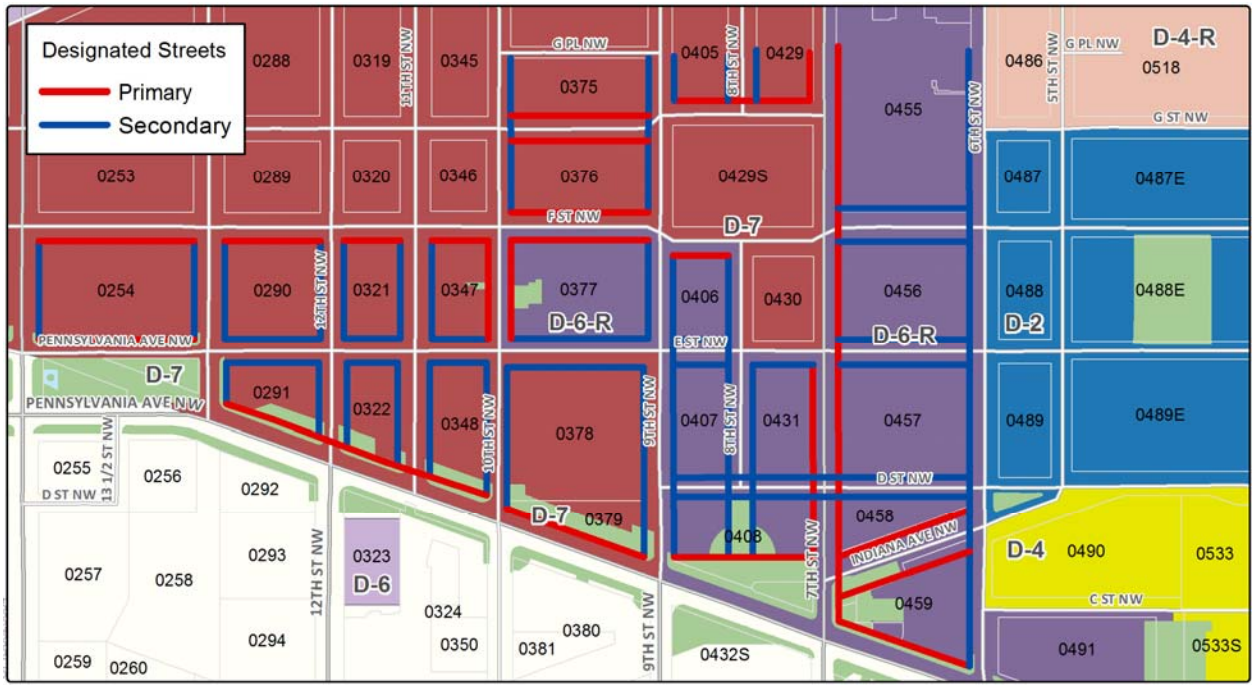
607 DOWNTOWN ARTS SUB-AREA

607.1 The objectives of the Downtown Arts Sub-Area are to create strong arts and-entertainment corridors including a spine of theaters, movie theaters, restaurants, nightclubs, and arts-related retail uses along E Street from 6th to 14th Street, N.W.; and a pedestrian-oriented concentration of museums, art galleries, other performing or visual arts uses, and festive retail-entertainment uses along 7th Street from Pennsylvania Avenue to north of G Street.

607.2 The general location of the Downtown Arts sub-area is between 6th and 14th Streets, N.W. between Pennsylvania Avenue, N.W. and G Place, N. W., including all or parts of Squares 254, 290, 291, 321, 322, 347, 348, 375, 376, 377, 405, 406, 407, 408, 429, 431, 455, 456, 457, 458, and 459E as outlined in Figure I § 607: Illustration of the Downtown Arts Sub-Area and Designated Street Segments.

607.3 The designated street segments are as generally indicated with red or blue lines in Figure I § 607: Illustration of the Downtown Arts Sub-Area and Designated Street Segments and detailed in Subtitle I § 607.4.

FIGURE I § 607: ILLUSTRATION OF THE DOWNTOWN ARTS SUB-AREA AND DESIGNATED STREET SEGMENTS



607.4 The Downtown Arts Sub-Area includes the following designated street segments and adjacent zoning.

TABLE I § 607.4: DOWNTOWN ARTS SUB-AREA DESIGNATED STREET SEGMENTS AND ADJACENT ZONING

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
6th St., N.W.	West	D-6-R	A line extending eastward from G Pl., N.W.	Pennsylvania Ave., N.W.	Secondary
7th St., N.W.	West	D-7	G Pl., N.W.	G St., N.W.	Primary
7th St., N.W.	East	D-6-R	G Pl., N.W.	E St., N.W.	Primary
7th St., N.W.	Both	D-6-R	E St., N.W.	Pennsylvania Ave., N.W.	Primary
8th St., N.W.	Both	D-6	A line extending eastward from G Pl., N.W.	G St., N.W.	Secondary
8th St., N.W.	West	D-6-R	F St., N.W.	E St., N.W.	Secondary
8th St., N.W.	Both	D-6-R	E St., N.W.	Pennsylvania Ave., N.W.	Secondary

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
9th St., N.W.	Both	D-7	A line extending eastward from G Pl., N.W.	G St., N.W.	Secondary
9th St., N.W.	West	D-7	G St., N.W.	E St., N.W.	Secondary
9th St., N.W.	East	D-6-R	F St., N.W.	Pennsylvania Ave., N.W.	Secondary
9th St., N.W.	West	D-7	F St. N.W.	Pennsylvania Ave., N.W.	Secondary
10th St., N.W.	East	D-7	G Pl., N.W.	F St., N.W.	Secondary
10th St., N.W.	Both	D-7	F St., N.W.	E St., N.W.	Primary
10th St., N.W.	Both	D-7	E St., N.W.	Pennsylvania Ave., N.W.	Secondary
11th St., N.W.	Both	D-7	F St., N.W.	Pennsylvania Ave., N.W.	Secondary
12th St., N.W.	Both	D-7	F St., N.W.	Pennsylvania Ave., N.W.	Secondary
13th St., N.W.	Both	D-7	F St., N.W.	Pennsylvania Ave., N.W.	Secondary
14th St., N.W.	East	D-7	F St., N.W.	E St., N.W.	Secondary
G St., N.W.	North	D-6	7th St., N.W.	9th St., N.W.	Primary
G St., N.W.	Both	D-6-R	9th St., N.W.	10th St., N.W.	Primary
F St., N.W.	Both	D-6-R	6th St., N.W.	7th St., N.W.	Secondary
F St., N.W.	South	D-6-R	8th St., N.W.	9th St., N.W.	Primary
F St., N.W.	North	D-7	9th St., N.W.	10th St., N.W.	Primary
F St., N.W.	South	D-6-R	9th St., N.W.	10th St., N.W.	Primary
F St., N.W.	South	D-7	10th St., N.W.	14th St., N.W.	Primary
E St., N.W.	Both	D-6-R	6th St., N.W.	7th St., N.W.	Secondary
E St., N.W.	South	D-6-R	7th St., N.W.	8th St., N.W.	Secondary
E St., N.W.	Both	D-6-R	8th St., N.W.	9th St., N.W.	Secondary
E St., N.W.	North	D-6-R	9th St., N.W.	10th St., N.W.	Secondary
E St., N.W.	South	D-7	10th St., N.W.	13th St., N.W.	Secondary
E St., N.W.	Both	D-7	9th St., N.W.	10th St., N.W.	Secondary
E St., N.W.	North	D-7	13th St., N.W.	14th St., N.W.	Primary
D St., N.W.	Both	D-6-R	6th St., N.W.	9th St., N.W.	Secondary

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
Indiana Ave., N.W.	Both	D-6-R	6th St., N.W.	7th St., N.W.	Primary
Pennsylvania Ave., N.W.	North	D-6-R D-7	6th St., N.W. 9th St., N.W.	9th St., N.W. 14th St., N.W.	Primary

607.5 Arts uses shall comprise the arts uses listed in Subtitle U, § 700.5.

607.6 A building or structure on a lot with frontage on a designated primary street segment in the Downtown Arts Sub-Area shall provide the following, either on-site or by securing arts credits pursuant to Subtitle I, Chapters 8 and 9:

(a) At least 1.0 FAR or floor area equivalent ratio (FAER), as defined in Subtitle I § 607.15, of arts uses; and

(b) Of this amount at least 0.25 FAR or FAER shall be devoted to one (1) or more arts uses listed in Subtitle U §§ 700.2(a) through (d) and (g) through (j).

607.7 The following actions count, cumulatively, towards meeting the use and FAR or FAER requirements of Subtitle I § 607.6(a), but shall not count towards meeting the requirements of Subtitle I § 607.6(b):

(a) Providing either on-site or by obtaining arts credits pursuant to Subtitle I, Chapters 8 and 9, between 0.5 and 1.0 FAR or FAER of arts uses;

(b) Providing, either on-site or by obtaining residential credits pursuant to Subtitle I § 803, at least 1.5 more residential FAR than is required by this chapter and devoting at least 0.25 FAR or FAER equivalent to the arts uses listed in Subtitle I § 607.6(b); and

(c) Providing an arts exhibition area that:

(1) Comprises at least twenty percent (20%) of the FAR required by Subtitle I § 607.7(b);

(2) Is open to the public at least five (5) days a week for fifty (50) weeks per year;

(3) Accommodates permanent art installations in no more than twenty percent (20%) of the space required by Subtitle I § 607.6(a); and

(4) Changes the installation of the art at least four (4) times a year in the eighty percent (80%) of the space not-permitted permanent installations, and has each of the different installations professionally curated.

607.8 The gross floor area of a cellar devoted to the uses required by this section shall count towards the minimum requirement without affecting the permitted maximum bulk of the building, and shall count towards the generation of credits provided for by Subtitle I, Chapter 8.

607.9 The requirements of this section shall not apply to historic landmarks or buildings where the primary use is religious worship.

607.10 If a building in Square 254, 290, 321, 347, 375, 376, or 377 has frontage on one (1) of the following designated street segments, up to, but not including, fifty percent (50%) of the FAR or FAER for uses required by Subtitle I § 607.6 shall be met by the retail core uses required by Subtitle I §§ 606.5:

(a) The north side of E Street, N.W. between 10th and 13th Streets, N.W.;

(b) The north side of Pennsylvania Avenue, N.W. (including E Street, N.W.) between 13th and 14th Streets, N.W.;

(c) The south side of F Street, N.W. between 10th and 14th Streets, N.W.;

(d) The north and south side of G Street, N.W. between 9th and 10th Streets, N.W.;

(e) The west side of 9th Street, N.W. between E and F Streets, N.W.;

(f) The east and west sides of 11th, 12th, and 13th Street, N.W. between E and F Streets, N.W.; or

(g) The east side of 14th Street, N.W. between E and F Streets, N.W.

607.11 A building with no more than six (6) above-grade floors on a lot not exceeding five thousand square feet (5,000 sq. ft.) shall provide at least 0.75 FAR or FAER of retail, arts, eating and drinking, or service uses.

607.12 A building with frontage on Pennsylvania Avenue, N.W., is subject to the height regulations of Subtitle I §§ 608.9 and 608.10.

607.13 A building within Square 254, 291, 322, 348, 378, 379, 406, 407, 408, 431, 457, 458, or 459 is also subject to Subtitle I § 608.10.

607.14 A building with frontage on a designated primary or secondary street segment shall be subject to the design regulations of Subtitle I § 602.

607.15 Floor area equivalent is defined, for the purposes this section, as the amount of floor area that a volume occupies, with the first fourteen (14 ft.) of clear height in a volume counting as one (1) floor and each ten feet (10 ft.) of additional clear height within that volume counting as a floor.

607.16 FAER is a numerical figure that expresses the total gross floor area of a volume as a multiple of the area of the lot. It is determined by dividing the total of the gross floor area and floor area equivalent of the building(s) on a lot by the area of the lot.

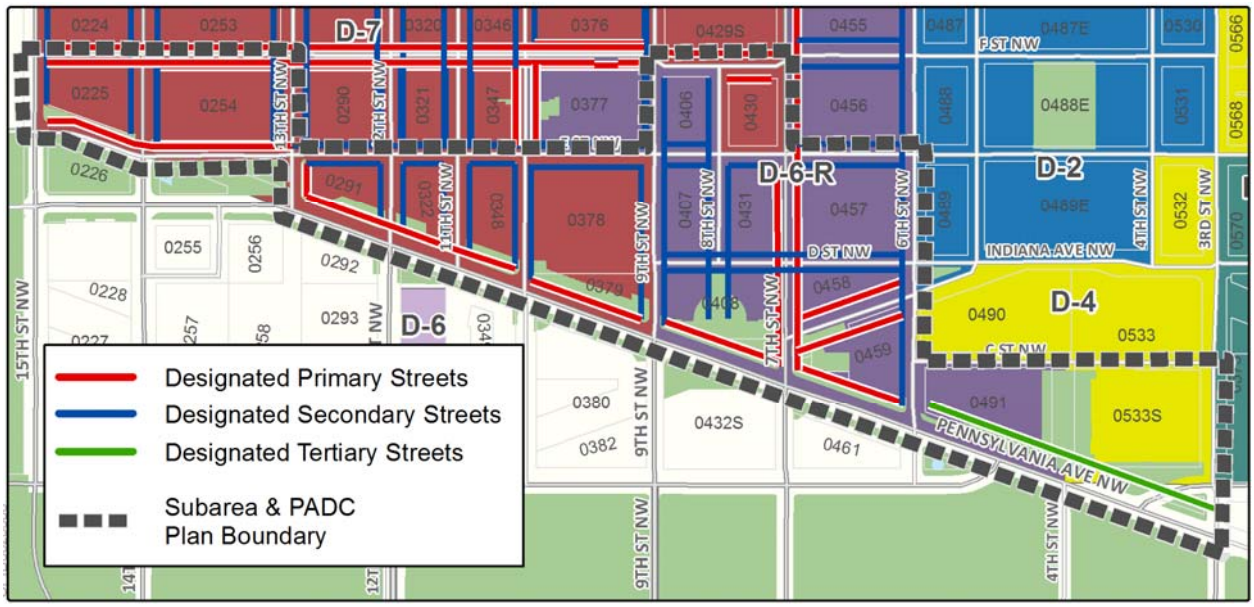
608 PENNSYLVANIA AVENUE SUB-AREA

608.1 The objectives of the Pennsylvania Avenue Sub-Area are to maintain Pennsylvania Avenue as a mixed-use monumental but lively street with additional height on its north side and active ground floor uses to bridge the downtown with the National Mall and the monumental core.

608.2 The general location area is the north side of Pennsylvania Avenue, N.W. and between one (1) and three (3) blocks north, between 3rd and 15th Streets, N.W. incorporating the areas, within the boundaries of the Pennsylvania Avenue Development Corporation (PADC) Plan (1974, as amended), including all or parts of squares from 6th through 14th streets, N.W., between Pennsylvania Avenue, N.W. and G Place, N.W., including Squares 225, 254, 291, 322, 348, 378, 379, 406, 407, 408, 430, 431, 432S, 457, 458, 459, 460, 491, and 533S, as outlined in Figure I § 608: Illustration of the Pennsylvania Avenue Sub-Area and Designated Street Segments.

608.3 The designated street segments are as generally indicated with red, blue, and green lines in Figure I § 608: Illustration of the Pennsylvania Avenue Sub-Area and Designated Street Segments and detailed in Subtitle I § 608.4.

FIGURE I § 608: ILLUSTRATION OF THE PENNSYLVANIA AVENUE SUB-AREA AND DESIGNATED STREET SEGMENTS



608.4 The Pennsylvania Avenue Sub-Area includes the following designated street segments and adjacent zoning:

TABLE I § 608.4: PENNSYLVANIA AVENUE SUB-AREA DESIGNATED STREET SEGMENTS AND ADJACENT ZONING

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
3rd St., N.W.	West	D-4	C St., N.W.	Pennsylvania Ave., N.W.	n/a
6th St., N.W.	East	D-6-R	C St., N.W.	Pennsylvania Ave., N.W.	n/a
6th St., N.W.	West	D-6-R	E St., N.W.	Pennsylvania Ave., N.W.	Secondary
7th St., N.W.	East	D-6-R	F St., N.W.	E St., N.W.	Primary
7th St., N.W.	Both	D-6-R	E St., N.W.	Pennsylvania Ave., N.W.	Primary
8th St., N.W.	West	D-6-R	F St. N.W.	E St., N.W.	Secondary; (Also in Downtown Arts Sub-Area)
8th St., N.W.	East	D-7	F St. N.W.	E St., N.W.	Not Designated
8th St., N.W.	Both	D-6-R	E St. N.W.	Pennsylvania Ave., N.W.	Secondary; (Also in Downtown Arts Sub-Area)
9th St., N.W.	East	D-6-R	F St. N.W.	Pennsylvania Ave., N.W.	Secondary; (Also in Downtown Arts Sub-Area)
9th St., N.W.	West	D-6	F St. N.W.	E St., N.W.	Secondary; (Also in Downtown Arts & Retail Sub-Areas)

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
9th St., N.W.	West	D-7	E St., N.W.	Pennsylvania Ave., N.W.	Secondary; (Also in Downtown Arts Sub-Area)
10th St., N.W.	Both	D-7	E St. N.W.	Pennsylvania Ave., N.W.	Secondary; (Also in Downtown Arts Sub-Area)
11th St., N.W.	Both	D-7	E St. N.W.	Pennsylvania Ave., N.W.	Secondary; (Also in Downtown Arts Sub-Area)
12th St., N.W.	Both	D-7	E St., N.W.	Pennsylvania Ave., N.W.	Secondary; (Also in Downtown Arts Sub-Area)
13th St., N.W.	Both	D-7	E St., N.W.	Pennsylvania Ave., N.W.	Secondary (Also in Downtown Arts & Retail Sub-Areas)
13th St., N.W.	West	D-7	E St., N.W.	F St., N.W.	Secondary (Also in Downtown Arts & Retail Sub-Areas)
14th St., N.W.	West	D-7	F St., N.W.	Pennsylvania Ave., N.W.	Secondary (Also in Downtown Arts & Retail Sub-Areas)
14th St., N.W.	West	D-7	F St., N.W.	Pennsylvania Ave., N.W.	Secondary (Also in Downtown Retail Sub-Area)
15th St., N.W.	East	D-7	F St., N.W.	Pennsylvania Ave., N.W.	Secondary (Also in Downtown Retail Sub-Area)
F St. N.W.	South	D-7	7th St., N.W.	8th St., N.W.	Primary

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
F St., N.W.	South	D-6-R	8th St., N.W.	9th St., N.W.	Primary; (Also in Downtown Arts Sub-Area)
F St. ,N.W.	South	D-7	13th St., N.W.	14th St., N.W.	Primary (Also in Downtown Arts & Retail Sub-Areas)
F St., N.W.	South	D-7	14th St., N.W.	15th St., N.W.	Primary (Also in Downtown Retail Sub-Area)
E St., N.W.	South	D-6-R	6th St., N.W.	7th St., N.W.	Secondary (Also in Downtown Arts Sub-Area)
E St., N.W.	South	D-6-R	7th St., N.W.	8th St., N.W.	Secondary; (Also in Downtown Arts Sub-Area)
E St., N.W.	North	D-6-R	7th St., N.W.	8th St., N.W.	Not Designated
E St., N.W.	Both	D-6-R	8th St., N.W.	9th St., N.W.	Secondary; (Also in Downtown Arts Sub-Area)
E St., N.W.	South	D-7	9th St., N.W.	13th St., N.W.	Secondary; (Also in Downtown Arts Sub-Area)
D St., N.W.	Both	D-6-R	6th St., N.W.	9th St., N.W.	Secondary
C St., N.W.	Both	D-4	3rd St., N.W.	4th St., N.W.	Not Designated
C St., N.W.	North	D-4	3rd St., N.W.	4th St., N.W.	Not Designated
C St., N.W.	South	D-7	4th St., N.W.	5th St., N.W.	Not Designated
Indiana Ave., N.W.	Both	D-6-R	6th St., N.W.	7th St., N.W.	Primary
Pennsylvania Ave., N.W.	North	D-4	3rd St., N.W.	5th St., N.W.	Tertiary
Pennsylvania Ave., N.W.	North	D-6-R	5th St., N.W.	6th St., N.W.	Primary

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
Pennsylvania Ave., N.W.	North	D-6-R	6th St., N.W.	9th St., N.W.	Primary
Pennsylvania Ave., N.W.	North	D-6	9th St., N.W.	10th St., N.W.	Primary; (Also in Downtown Arts Sub-Area)
Pennsylvania Ave., N.W. (including E St., N.W.)	North	D-7	10th St., N.W.	13th St., N.W.	Primary; (Also in Downtown Arts Sub-Area)
Pennsylvania Ave., N.W. (including E St., N.W.)	North	D-7	13th St., N.W.	14th St., N.W.	Primary (Also in Downtown Arts & Retail Sub-Areas
Pennsylvania Ave., N.W. (including E St., N.W.)	North	D-7	14th St., N.W.	15th St., N.W.	Primary; (Also in Downtown Arts Sub-Area)

608.5 Buildings with frontage on designated primary or secondary street segments in this sub-area are subject to the use regulations of Subtitle I § 601.

608.6 Buildings in Squares 254, 291, 322, 347, and 378 are subject to the use regulations of the Downtown Arts Sub-Area in Subtitle I § 607.

608.7 Buildings in Squares 225 and 254, are subject to the use regulations of the Downtown Retail Sub-Area in Subtitle I § 606.

608.8 Buildings with frontage on primary or secondary designated street segments in this sub-area are subject to the design regulations in Subtitle I § 602.

608.9 The height of the building or structure fronting on Pennsylvania Avenue shall be measured from the Pennsylvania Avenue curb at the middle of the front of the building or other structure to the highest point of the roof or parapet exclusive of any structure on the roof.

608.10 A building within the Pennsylvania Avenue sub-area is also governed by the Pennsylvania Avenue Development Corporation (PADC) Plan of 1974, as implemented by the Pennsylvania Avenue Development Corporation General Guidelines and Uniform Standards 36 C.F.R. §§ 910.1 *et seq*.

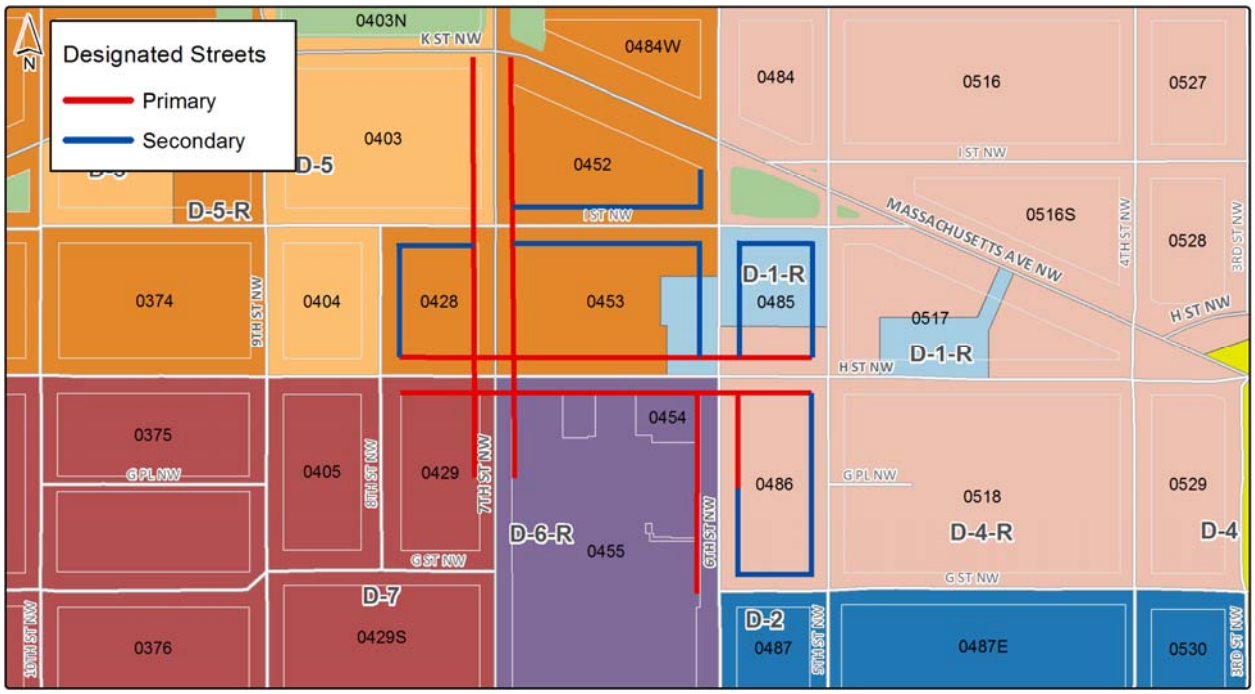
609 CHINATOWN SUB-AREA

609.1 The objectives of the Chinatown Sub-Area are to protect and enhance downtown's only ethnic cultural area by maintaining and expanding the existing concentration of retail uses emphasizing Chinese or Asian cultural and community facilities, as well as merchandise and related wholesale operations serving residents, visitors, tourists, and business travelers.

609.2 The general location of the Chinatown Sub-Area is from 5th to 8th Streets, N.W., between Massachusetts Avenue and H Street, N.W., including all or parts of Squares 425, 428, 429, and 454, as in Figure I § 609: Illustration of the Chinatown Sub-Area and Designated Street Segments.

609.3 The designated street segments are as generally indicated with red or blue lines in Figure I § 609: Illustration of the Chinatown Sub-Area and Designated Street Segments and detailed in Subtitle I § 609.4.

FIGURE I § 609: ILLUSTRATION OF THE CHINATOWN SUB-AREA AND DESIGNATED STREET SEGMENTS



609.4 The Chinatown Sub-Area includes the following designated street segments and adjacent zoning:

TABLE I § 609.4: CHINATOWN SUB-AREA DESIGNATED STREET SEGMENTS AND ADJACENT ZONING

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
5th St., N.W.	West	D-1-R D-4-R	I St., N.W.	G St., N.W.	Secondary
6th St., N.W.	West	D-5-R	Massachusetts Ave., N.W.	I St., N.W.	Secondary
6th St., N.W.	Both	D-1-R D-5-R	I St., N.W.	H St., N.W.	Secondary
6th St., N.W.	Both	D-1-R D-5-R	H St., N.W.	A line extending eastward from G Pl., N.W.	Primary
6th St., N.W.	East	D-4-R	A line extending eastward from G Pl., N.W.	G St., N.W.	Secondary
6th St., N.W.	West	D-4-R	A line extending eastward from G Pl., N.W.	G St., N.W.	Primary
7th St., N.W.	East	D-5-R	Massachusetts Ave., N.W.	I St., N.W.	Primary
7th St., N.W.	West	D-5	Massachusetts Ave., N.W.	I St., N.W.	Primary
7th St., N.W.	Both	D-5-R	I St., N.W.	H St., N.W.	Primary
7th St., N.W.	East	D-6-R	H St., N.W.	A line extending east from G Pl., N.W.	Primary
7th St., N.W.	West	D-7	H St., N.W.	A line extending east from G Pl., N.W.	Primary
8th St., N.W.	East	D-5-R	I St., N.W.	H St., N.W.	Secondary
Massachusetts Ave., N.W.	South	D-5-R	6th St., N.W.	7th St., N.W.	Secondary (Also in Massachusetts Avenue and Mt. Vernon Square Sub-Area)
I St., N.W.	South	D-1-R	5th St., N.W.	6th St., N.W.	Secondary

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
I St., N.W.	Both	D-5-R	6th St., N.W.	7th St., N.W.	Secondary
I St., N.W.	South	D-5-R	7th St., N.W.	8th St., N.W.	Secondary
H St., N.W.	Both	D-1-R D-5-R D-7	5th St., N.W.	8th St., N.W.	Primary
G St., N.W.	North	D-4-R	5th St., N.W.	6th St., N.W.	Secondary

609.5 A building or structure on a lot with frontage on a designated primary street segment shall:

(a) Devote not less than one hundred percent (100%) of the ground floor gross floor area to uses identified in Subtitle I § 601.2 or to wholesaling accessory to those uses, provided that the requirement shall be 0.5 FAR equivalent for a building in the D-1-R, D-4-R, or D-5-R zone;

(b) Devote no more than twenty-five percent (25%) of the ground floor gross floor area retail requirement to services (financial); and

(c) Devote one hundred percent (100%) of the building's street frontage along the primary street to required uses, except for space devoted to building entrances or required for fire control; except that the requirements of this sub-section shall not apply to buildings devoted entirely to residential uses, theaters, historic landmarks, or places of worship.

609.6 A building or structure on a lot with frontage only on a designated secondary street segment shall:

(a) Devote not less than fifty percent (50%) of the ground floor gross floor area to on-site required uses identified in Subtitle I § 601.2;

(b) Devote one hundred percent (100%) of the building's street frontage along the designated secondary street to required uses, except for space devoted to building entrances or required for fire control; and

(c) The requirements of this sub-section shall not apply to buildings devoted entirely to residential uses, theaters, historic landmarks, or places of worship.

609.7 A building fronting on a designated primary or secondary street segment is subject to the design regulations in Subtitle I § 602.

609.8 A building fronting on Massachusetts Avenue, N.W., is subject to the height regulations in Subtitle I § 610.7.

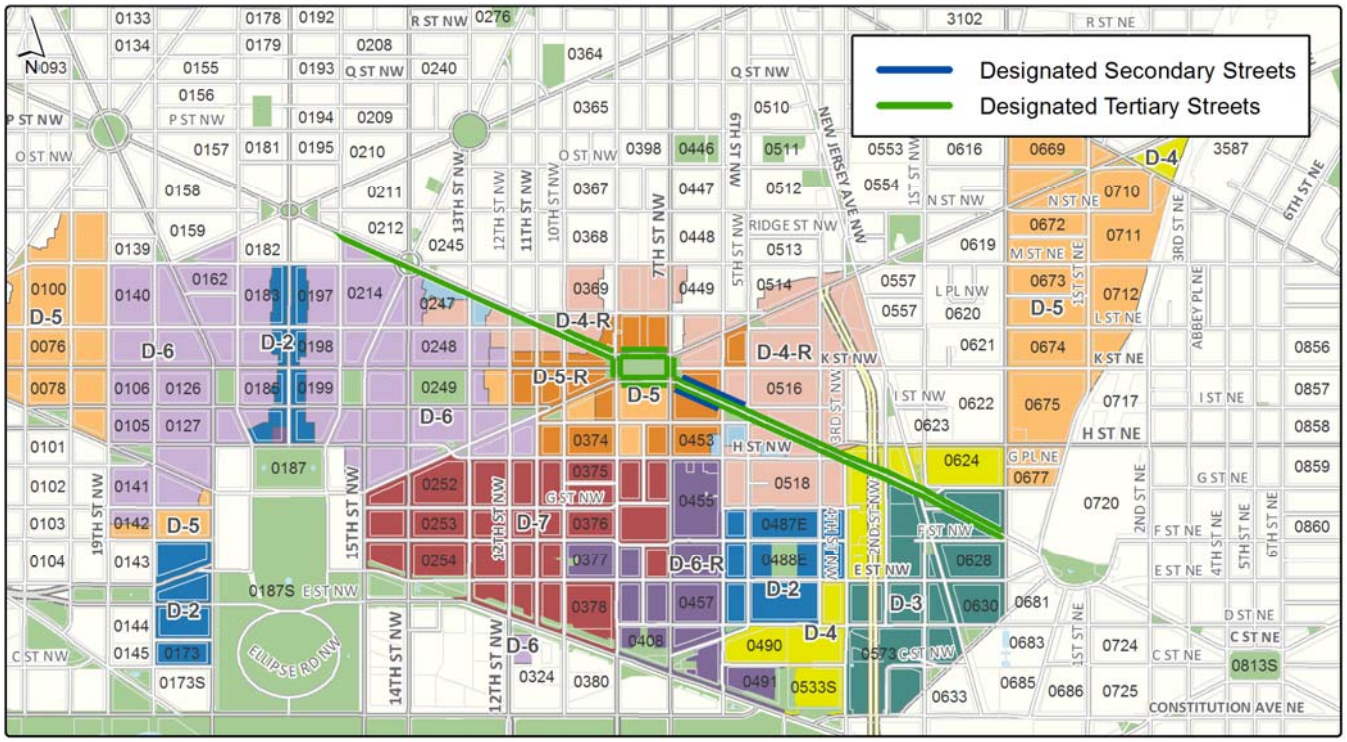
610 MASSACHUSETTS AVENUE CORRIDOR AND MT. VERNON SQUARE SUB-AREA

610.1 The objectives of the Massachusetts Avenue Corridor and Mt. Vernon Square Sub-Area are to encourage a boulevard and park-like openness for the Massachusetts Avenue corridor, linking the Capitol to the embassy district through upper story setbacks that increase the amount of light available to pedestrians and to public space plantings.

610.2 The general location of the Massachusetts Avenue Corridor and Mt. Vernon Square Sub-Area is along Massachusetts Avenue from North Capitol Street to 15th Street, N.W., including Mount Vernon Place, K Street, 7th and 9th Streets N.W. surrounding Mount Vernon Square, including all or parts of Squares 212-214, 245-247, 282, 283, 315, 342, 370-372, 402, 403, 426, 451, 452, 484W, 484, 516S, 517, 528, 529, 562S, 563-565, and 624-626, in Figure I § 610: Illustration of the Massachusetts Avenue Corridor and Mt. Vernon Square Sub-Area and Designated Street Segments.

610.3 The designated street segments are as generally indicated with the blue and green lines in Figure I § 610: Illustration of the Massachusetts Avenue Corridor and Mt. Vernon Square Sub-Area and Designated Street Segments and detailed in Subtitle I § 610.4.

FIGURE I § 610: ILLUSTRATION OF THE MASSACHUSETTS AVENUE CORRIDOR AND MT. VERNON SQUARE SUB-AREA AND DESIGNATED STREET SEGMENTS



610.4 The Massachusetts Avenue Corridor and Mt. Vernon Square Sub-Area includes the following designated street segments and adjacent zoning:

TABLE I § 610.4: MASSACHUSETTS AVENUE CORRIDOR AND MT. VERNON SQUARE SUB-AREA DESIGNATED STREET SEGMENTS AND ADJACENT ZONING

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
7th St., N.W.	Both	D-4-R D-5-R	Mt. Vernon Pl. / New York Ave., N.W.	K St. / Massachusetts Ave., N.W.	Tertiary
9th St., N.W.	Both	D-4-R D-5-R	Mt. Vernon Pl. / Massachusetts Ave., N.W.	K St. / New York Ave., N.W.	Tertiary
Massachusetts Ave., N.W.	Both	D-2-R D-3 D-4 D-4-R	North Capitol St., N.W.	5th St., N.W.	Tertiary
Massachusetts Ave., N.W.	South	D-4-R	5th St., N.W.	6th St., N.W.	Tertiary
Massachusetts Ave., N.W.	North	D-4-R D-5-R	5th St., N.W.	6th St., N.W.	Tertiary, and Secondary per Mount Vernon Triangle Sub-Area

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
Massachusetts Ave., N.W.	South	D-R-5	6th St., N.W.	7th St., N.W.	Tertiary, and Secondary per Chinatown Sub-Area
K St., N.W.	Both	D-5	7th St., N.W.	9th St., N.W.	Tertiary
Mt. Vernon Place, N.W.	Both	D-5-R	7th St., N.W.	9th St., N.W.	Tertiary
Massachusetts Ave., N.W.	Both	D-4-R D-5-R	9th St., N.W.	10th St., N.W.	Tertiary
Massachusetts Ave., N.W.	South	D-2-R D-4-R	10th St., N.W.	15th St., N.W.	Tertiary

610.5 A building with frontage on the south side of Massachusetts Avenue, N.W., between 6th and 7th Streets, N.W., shall be subject to Subtitle I § 609.6, the Chinatown Sub-Area use requirements for a designated secondary street segment.

610.6 A building with frontage on the north side of Massachusetts Avenue, N.W., between 5th and 7th Streets, N.W., shall be subject to the use requirements in Subtitle I § 601 for a designated secondary street segment.

610.7 No part of a building with frontage on Mount Vernon Square or on Massachusetts Avenue between North Capitol Street and 15th Street N.W. shall project above a plane drawn at a forty-five degree (45°) angle from a line located one hundred ten feet (110 ft.) above the property line abutting Massachusetts Avenue or Mount Vernon Square.

610.8 A building with frontage on the north side of Massachusetts Avenue, N.W., between 5th and 7th Streets, N.W., shall also be subject to the design requirements in Subtitle I §§ 602 and 611.10 for a designated secondary street segment in the Mount Vernon Triangle Sub-Area.

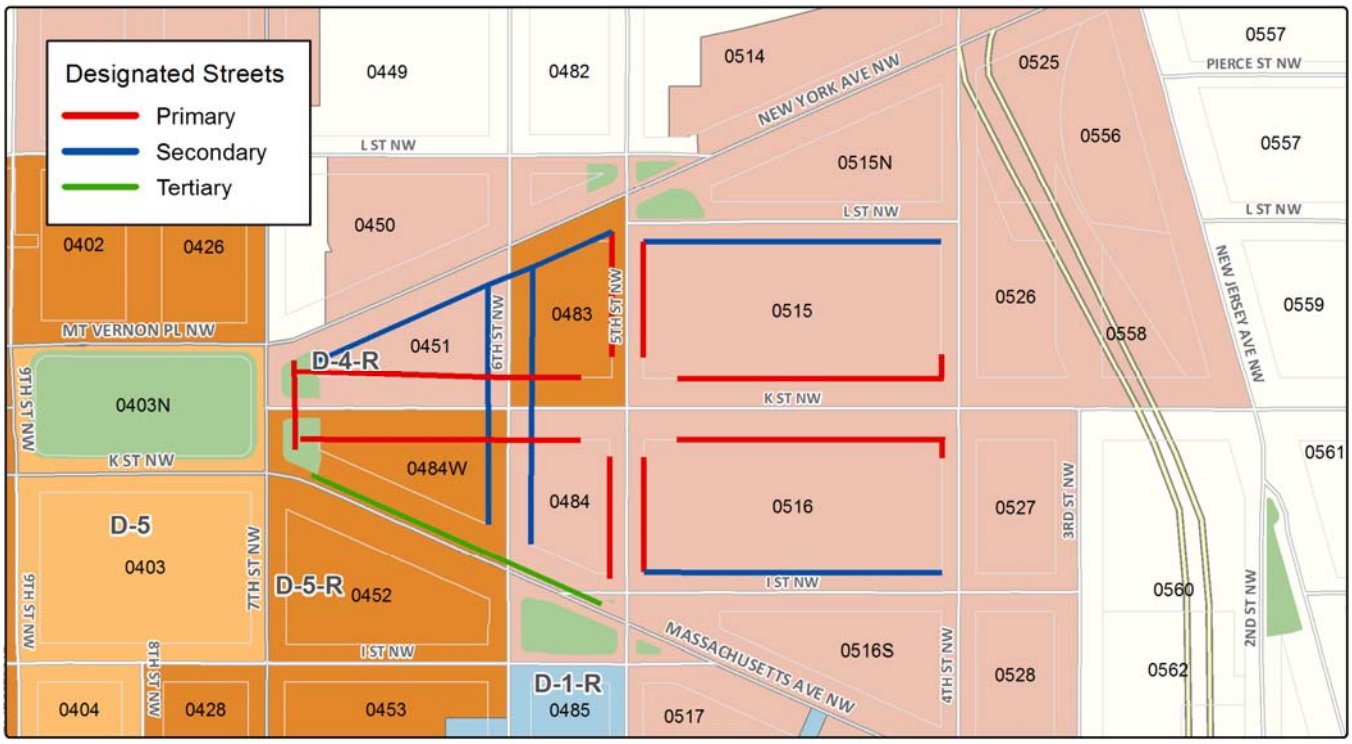
611 MOUNT VERNON TRIANGLE (MVT) SUB-AREA

611.1 The objective of the Mount Vernon Triangle Sub-Area is to promote the development of ground floor level retail, service, food and beverage and entertainment uses that serve the immediate and nearby neighborhoods, as well as the Convention Center and downtown, in street frontages that will be active, pedestrian-friendly places, particularly along K and 5th Streets, N.W.

611.2 The general location of the Mount Vernon Triangle Sub-Area is from 4th to 7th Streets, N.W., from L Street and New York Avenue to Massachusetts Avenue and I Street, N.W., but not including the intersection of 5th and Streets, N.W., incorporating all or parts of Squares 451, 484W, 483, 484, 515, and 516, in Figure I § 611: Illustration of the Mount Vernon Triangle Sub-Area and Designated Street Segments. This sub-area does not include the Mount Vernon Triangle Principal Intersection Area sub-area regulated by Subtitle I § 612.

611.3 The designated street segments are as generally indicated with red, blue, and green lines in Figure I § 611: Illustration of the Mount Vernon Triangle Sub-Area and Designated Street Segments and detailed in the Subtitle I § 611.4.

FIGURE I § 611: ILLUSTRATION OF THE MOUNT VERNON TRIANGLE SUB-AREA AND DESIGNATED STREET SEGMENTS



611.4 The Mt. Vernon Triangle Sub-Area includes the following designated street segments and adjacent zoning.

TABLE I § 611.4: MOUNT VERNON TRIANGLE SUB-AREA DESIGNATED STREET SEGMENTS AND ADJACENT ZONING

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
4th St., N.W.	West	D-4-R	L St., N.W.	36 feet north of K St., N.W.	Tertiary, with vehicle entry restrictions per Subtitle I § 611.4(f)
4th St., N.W.	West	D-4-R	36 feet north of K St., N.W.	36 feet south of K St., N.W.	Primary, with vehicle entry restrictions per Subtitle I § 611.4(f)
5th St., N.W.	Both	D-4-R, D-5-R	New York Ave., N.W.	72 ft. north of lot line on north side of K St., N.W.	Primary, with portions subject to vehicle entry restrictions per Subtitle I §§ 611.4(d), (e), (f)

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
5th St., N.W.	Both	D-4-R	72 ft. south of lot line on south side of K St., N.W.	Massachusetts Ave., N.W.	Primary, with portions subject to vehicle entry restrictions per Subtitle I §§ 611.4(d), (e), (f)
6th St., N.W.	Both	D-4-R, D-5-R	New York Ave., N.W.	Massachusetts Ave., N.W.	Secondary, with vehicle entry restrictions per Subtitle I § 611.4(f)
7th St., N.W.	East	D-4-R, D-5-R	New York Ave., N.W.	Massachusetts Ave., N.W.	Primary, with vehicle entry restrictions per Subtitle I § 611.4(f) and Tertiary, per Massachusetts Avenue / Mt. Vernon Square Subtitle I § 610.4
Massachusetts Ave., N.W.	North	D-5-R	5th St., N.W.	7th St., N.W.	Secondary, with vehicle entry restrictions per Subtitle I § 611.4(f) and Tertiary, per Massachusetts Avenue / Mt. Vernon Square Subtitle I § 610.4
K St. N.W.	North	D-4-R	4th St., N.W.	5th St., N.W.	Secondary, with vehicle entry restrictions per Subtitle I § 611.4(f)
K St., N.W.	Both	D-4-R, D-5-R	4th St., N.W.	72 ft. east of lot line on east side of 5th St., N.W.	Primary, with vehicle entry restrictions per Subtitle I §§ 611.4(c), (d), (f)
K St., N.W.	Both	D-4, D-5	72 ft. west of lot line on west side of 5th St., N.W.	7th St., N.W.	Primary, with vehicle entry restrictions per Subtitle I § 611.4(c), (f)
L St., N.W.	South	D-4-R	4rd St., N.W.	5th St., N.W.	Secondary, with vehicle entry restrictions per Subtitle I§ 611.4(f)
New York Ave., N.W.	South	D-4-R, D-5-R	5th St., N.W.	7th St., N.W.	Secondary, with vehicle entry restrictions per Subtitle I§ 611.4(f)

611.5 Use regulations for a building with frontage on designated primary or secondary street segments are contained in Subtitle I § 601.

611.6 With the exception of garage or loading entrances or exits regulated in Subtitle I §§ 611.7 through 611.11, design regulations for a building with frontage on a designated primary or secondary designated streets are contained in Subtitle I § 602.

611.7 There shall be no vehicular garage or loading entrance or exit constructed on the portions of the façade of a building fronting on the north or south side of K Street, N.W. between 5th Street, N.W. and 7th Street, N.W.

611.8 Among all buildings within each of the following designated street segments there shall be no more than one (1) vehicular garage or loading entrance or exit constructed, unless otherwise required by DDOT:

(a) The north side of K Street between 4th Street and 5th Street, N.W.;

(b) The south side of K Street between 4th Street, N.W. and an alley existing on the effective date of this title located approximately three hundred and seventy-five (375) feet west of 4th Street, N.W.; and

(c) The east side of 5th Street, N.W. between Eye Street and L Street, N.W., other than the area defined in Subtitle I § 612.

611.9 Among all buildings within each of the following designated street segments, there shall be no more than two (2) vehicular garage or loading entrances or exits constructed on the portions of façades adjacent to the following streets, unless otherwise necessitated by a written opinion or decision by DDOT pertinent to the site where the façade would be located:

(a) The west side of 5th Street between I Street and K Street; and

(b) The west side of 5th Street between K Street and L Street.

611.10 For designated street segments in the Mount Vernon Triangle Sub-Area that are not governed by Subtitle I §§ 611.7 through 611.9, no more than one (1) vehicular garage or loading entrance or exit driveway may be constructed within the length of an individual building, unless the building extends the entire length of the square, in which case the following shall apply:

(a) No more than two (2) vehicular garage or loading entrance or exit driveways may be constructed within the total length of all building façades adjacent to a public street on any side of a property Square; and

(b) Each vehicular garage or loading entrance or exit shall be separated by no less than sixty feet (60 ft.), unless lesser distances between curb cuts are permitted for the location by DDOT.

611.11 Exceptions from the requirements of Subtitle I §§ 611.7 through 611.10 shall be permitted only if granted as a special exception by the Board of Zoning Adjustment under Subtitle X, Chapter 9, provided the applicant also demonstrates that:

(a) There is no practical alternative means of serving the parking, loading, or drop-off needs of the building to be served by the proposed vehicular garage or loading entrances or exits, such as signage approved by DDOT, that would direct vehicles to an alternative entrance point within the same square;

(b) Access to the vehicular garage or loading entrances or exits will not impede the flow of pedestrian traffic on a designated primary street segment; and

(c) The proposed vehicular garage or loading entrances or exits is not inconsistent with DDOT landscape plans for the public rights-of-way on the designated street frontage as such plans exist at the time of the special exception application.

611.12 Design regulations for designated primary and secondary street segments are contained in Subtitle I § 602.

611.13 Design regulations for the designated tertiary street segments on Massachusetts Avenue, N.W. are contained in Subtitle I § 610.

612 MOUNT VERNON TRIANGLE PRINCIPAL INTERSECTION AREA SUB-AREA

612.1 The objective of the Mount Vernon Triangle Principal Intersection Sub-Area is to require uses and building design that provide a focal point for food and beverage, entertainment, and accessory uses in the Mount Vernon Triangle.

612.2 The Mount Vernon Triangle Principal Intersection Sub-Area generally comprises the square-shaped area measuring seventy-two feet (72 ft.) on a side on each of the four (4) corners of the intersection of K and 5th Streets, N.W in Squares 483, 484, 515, and 516, where two (2) designated primary street segment sides are contiguous with the property lines adjacent to each corner of the intersection, as indicated in Figure I § 612(a): Illustration of the Mount Vernon Triangle Principal Intersection Sub-Area and Designated Street Segments and Figure I § 612(b): Illustration of the Mount Vernon Triangle Principal Intersection Sub-Area Corners and Modules.

FIGURE I § 612(a): ILLUSTRATION OF THE MOUNT VERNON TRIANGLE PRINCIPAL INTERSECTION SUB-AREA CORNERS AND MODULES

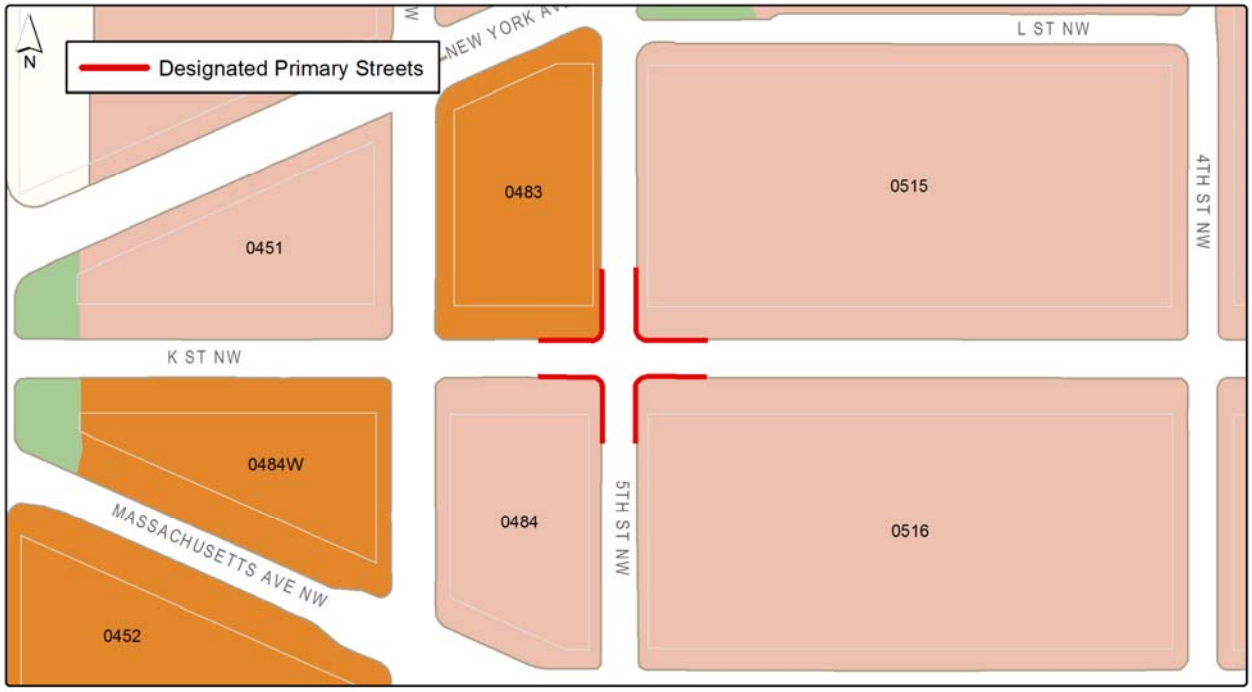
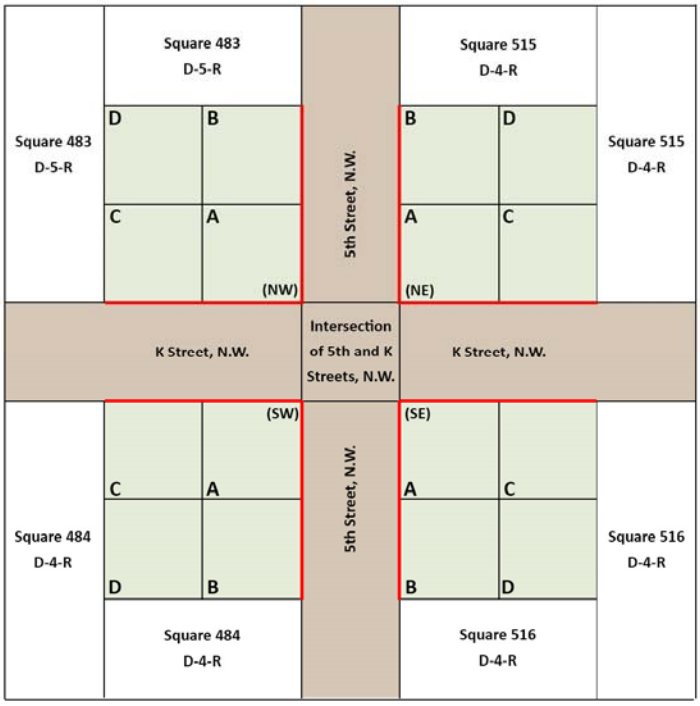


FIGURE I § 612(b): ILLUSTRATION OF THE MOUNT VERNON TRIANGLE



PRINCIPAL INTERSECTION AREA CORNERS AND MODULES

612.3 The designated street segments and property within the Mt. Vernon Triangle Principal Intersection Area Sub-Area includes the following:

(a) In Figure I § 612(b): Illustration of the Mount Vernon Triangle Principal Intersection Sub-Area Corners and Modules, "K Street" defines the east and west directions; and "5th Street" defines the north and south directions. The northwest corner is Square 483; the northeast corner is Square 515; the southwest corner is Square 484; and the southeast corner is Square 516;

(b) At each corner there are four (4) modules labeled A, B, C, and D. Each block in the chart labeled A, B, C, or D represents a thirty-six-foot by thirty-six-foot (36 ft. x 36 ft.) area within the respective seventy-two-foot by seventy-two-foot (72 ft. x 72 ft.);

(c) The "A" modules are the thirty-six-foot by thirty-six-foot (36 ft. x 36 ft.) modules nearest to the intersections. The "B" modules are the thirty-six-foot by thirty-six-foot (36 ft. x 36 ft.) modules fronting on 5th Street that are between thirty-six feet (36 ft.) and seventy-two feet (72 ft.) north and south of K Street. The "C" modules are the thirty-six-foot by thirty-six-foot (36 ft. x 36 ft.) modules fronting on K Street that are between thirty-six feet (36 ft.) and seventy-two feet (72 ft.) east and west of 5th Street. The "D" modules are the thirty-six-foot by thirty-six- foot (36 ft. x 36 ft.) interior modules that have frontage on neither K Street nor 5th Street; and

(d) Each designated street segment in the sub-area is a designated primary street segment, with adjacent property in Square 484, 515, and 516 being zoned D-4-R, and adjacent property in Square 483 being zoned D-5-R.

612.4 The portion of a building within the Mt. Vernon Triangle Principal Intersection Area Sub-Area is subject to the following height regulations in addition to those governing the property's zone districts:

TABLE I § 612.4: MAXIMUM PERMITTED BUILDING HEIGHT

Module	Maximum Height	Minimum Clear Floor-to Ceiling Height
A	Except in Square 515, no higher than 50 ft. above grade	22 ft.
B & C	No more than 50% of the portions of a building within each of the B and C modules shall be more than 50 ft. above grade	22 ft. for at least 50% of its ground floor
D	As permitted by zone	14 ft.

612.5 The portion of a building within the Mt. Vernon Triangle Principal Intersection Area Sub-Area is subject to the following streetwall design regulations in addition to those governing the property's zone district and designated primary street classification:

(a) Each building shall devote not less than sixty-five percent (65%) of the surface area of the streetwall(s) at the ground level, to a height of at least twenty-two feet (22 ft.) feet, to display windows with clear and/or low-emissivity glass, except for decorative or architectural accent and entrances to commercial uses or to the building;

(b) Each building shall devote not less than sixty-five percent (65%) of the surface area of the streetwall between eighteen feet (18 ft.) and twenty-two feet (22 ft.) above grade to clear and/or low-emissivity glass;

(c) There shall be no direct entrances to lobbies serving residential or office uses; and

(d) There shall be no vehicular garage or loading entrances or exits in portions of façades within the principal intersection area, unless otherwise required DDOT.

612.6 Roof terraces, whether open to the sky or covered with awnings or canopies, that are atop the portions of a building within the A, B, or C modules, as defined in Subtitle I § 612.2, shall not be included in the maximum floor area ratio calculations.

612.7 Within the boundaries of the sub-area, a building shall dedicate one hundred percent (100%) of its ground floor and mezzanine to uses permitted on designated primary streets by Subtitle I § 601, with at least fifty percent (50%) of that area being devoted to one (1) or more of the following uses:

(a) Bookstore, including restaurant;

(b) Cabaret; or

(c) Eating and drinking establishment, including bar, nightclub, or cocktail lounge, and restaurant.

612.8 At least forty percent (40%) of the linear frontage of the ground floor and mezzanine fronting on a designated primary street within the sub-area shall be devoted to a use required by Subtitle I § 612.7.

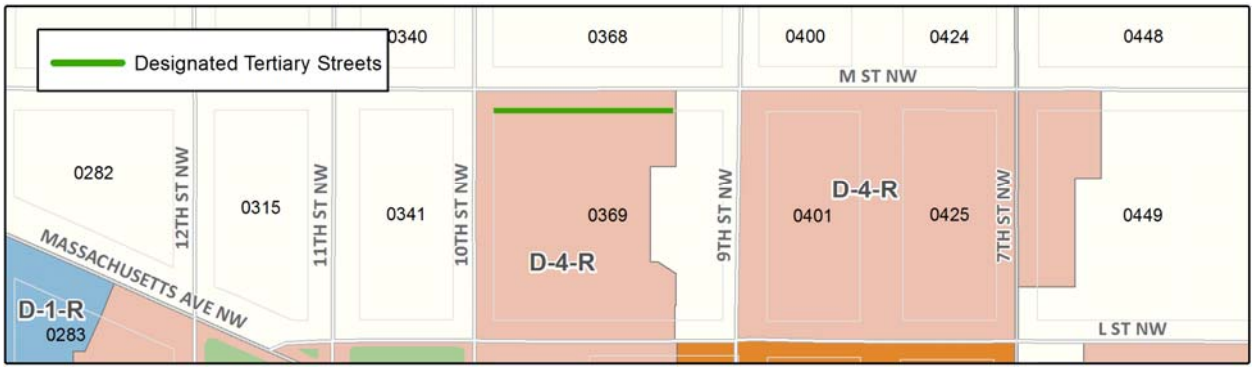
613 BLAGDEN ALLEY RESIDENTIAL TRANSITION SUB-AREA

613.1 The objective of the Blagden Alley Residential Transition Sub-Area is to ensure a height transition between the medium density, primarily commercial, public and lodging uses south of M Street and the more residential uses on the north of M Street.

613.2 The Blagden Alley Residential Transition Sub-Area consists of the D-4-R zoned property with frontage on the designated tertiary street segment on the south side of M Street N.W., between 9th and 10th Streets, N.W., including portions of

Square 369 as generally indicated with the green line in Figure I § 613: Illustration of the Blagden Alley Residential Transition Sub-Area and Designated Street Segments.

FIGURE I § 613: ILLUSTRATION OF THE BLAGDEN ALLEY RESIDENTIAL TRANSITION SUB-AREA AND DESIGNATED STREET SEGMENTS



613.3 The zone district use regulations shall govern the sub-area.

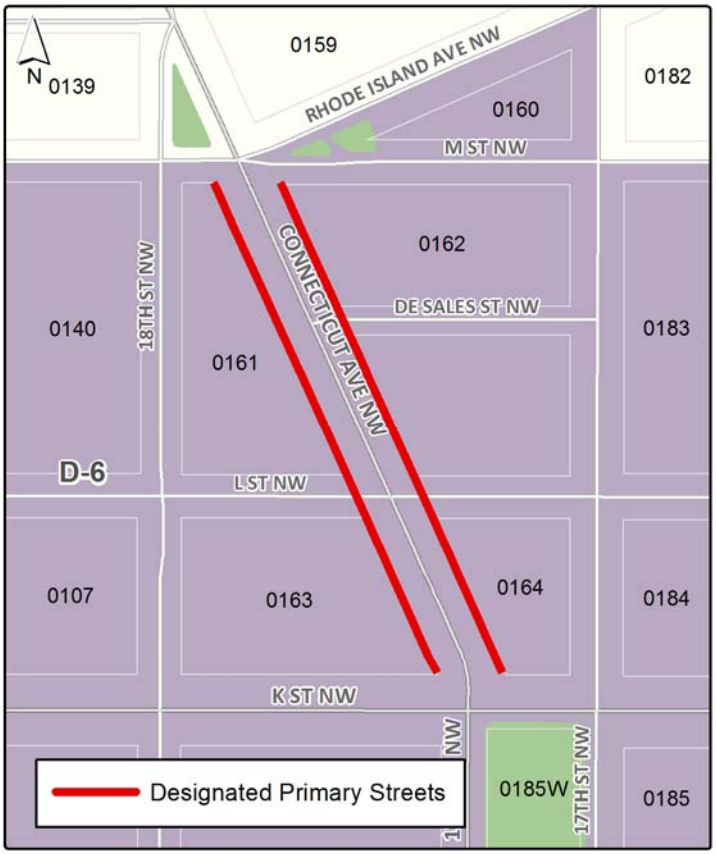
613.4 A building constructed on a lot fronting on the south side of M Street, N.W., between 9th Street, N.W. and 10th Street, N.W., shall be limited to a maximum height of sixty feet (60 ft.) to a depth of forty feet (40 ft.) from the lot line on M Street, N.W.

614 LOWER CONNECTICUT AVENUE CORRIDOR SUB-AREA

614.1 The objective of the Lower Connecticut Avenue Corridor Sub-Area is to support the continued concentration of active, high-quality ground floor retail uses along the Connecticut Avenue corridor between K Street, N.W. and Dupont Circle.

614.2 The Lower Connecticut Avenue Corridor Sub-Area consists of the D-6-zoned property with frontage on either side of the designated primary street segments of Connecticut Avenue between K Street, N.W. and M Street, N.W., including all or parts of Squares 161, 162, 163, and 164 as generally indicated with the red lines in Figure I § 614: Illustration of the Lower Connecticut Avenue Corridor Sub-Area and Designated Street Segments.

FIGURE I § 614: ILLUSTRATION OF THE LOWER CONNECTICUT AVENUE CORRIDOR SUB-AREA AND DESIGNATED STREET SEGMENTS



614.3 The zone district and the designated primary street segment use regulations in Subtitle I § 601 shall govern uses in buildings with frontage on a designated street segment.

614.4 The designated primary street design regulations in Subtitle I § 602 shall govern the ground floor design of a building with frontage on a designated street segment in the sub-area.

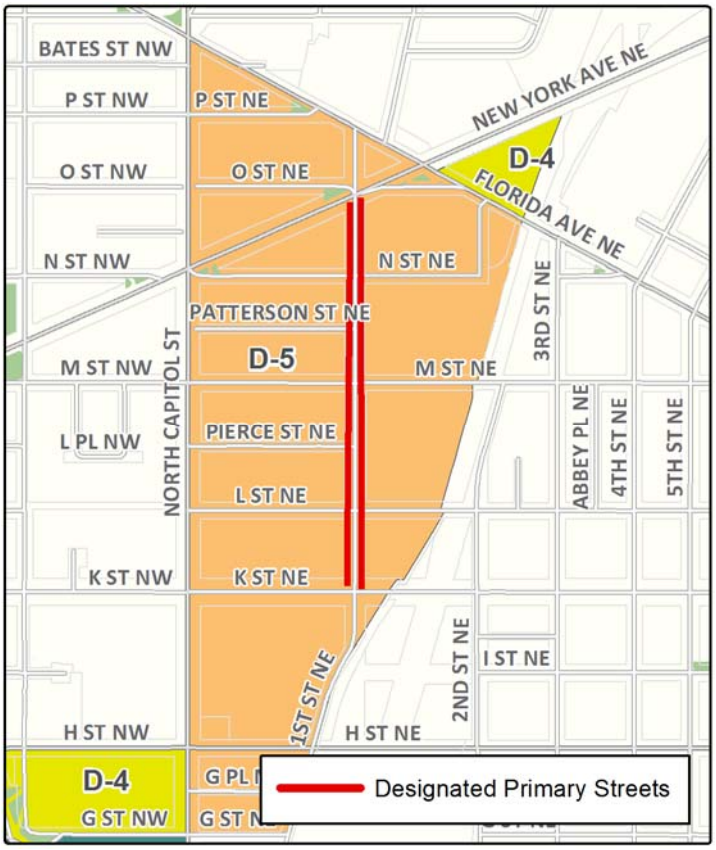
615 NORTH OF MASSACHUSETTS AVENUE (NOMA) SUB-AREA

615.1 The objective of the North of Massachusetts Avenue (NoMA) Sub-Area is to further the transition of the former light industrial area into a high-density commercial and residential neighborhood with a concentration of ground floor level retail, service, food and beverage, and entertainment uses on 1st Street, N.E.

615.2 The NoMA Sub-Area consists of the D-5-zoned property with frontage on 1st Street, N.E., the designated primary street between K Street, N.E. and New York Avenue, N.E., including all or parts of Squares 671, 672, 673, 674, 710, 711, 712, and 713, as generally indicated with the red lines in Figure I § 615: Illustration of

the North of Massachusetts Avenue (NoMA) Sub-Area and Designated Street Segments.

FIGURE I § 615: ILLUSTRATION OF THE NORTH OF MASSACHUSETTS AVENUE (NOMA) SUB-AREA AND DESIGNATED STREET SEGMENTS



615.3 The designated primary street use regulations in Subtitle I § 601 shall govern uses in a building with frontage on a designated street segment, to a depth of one hundred fifty feet (150 ft.) from the building line on the designated street.

615.4 The designated primary street design regulations in Subtitle I § 602 shall govern the ground floor design of a building with frontage on a designated street segment in the sub-area.

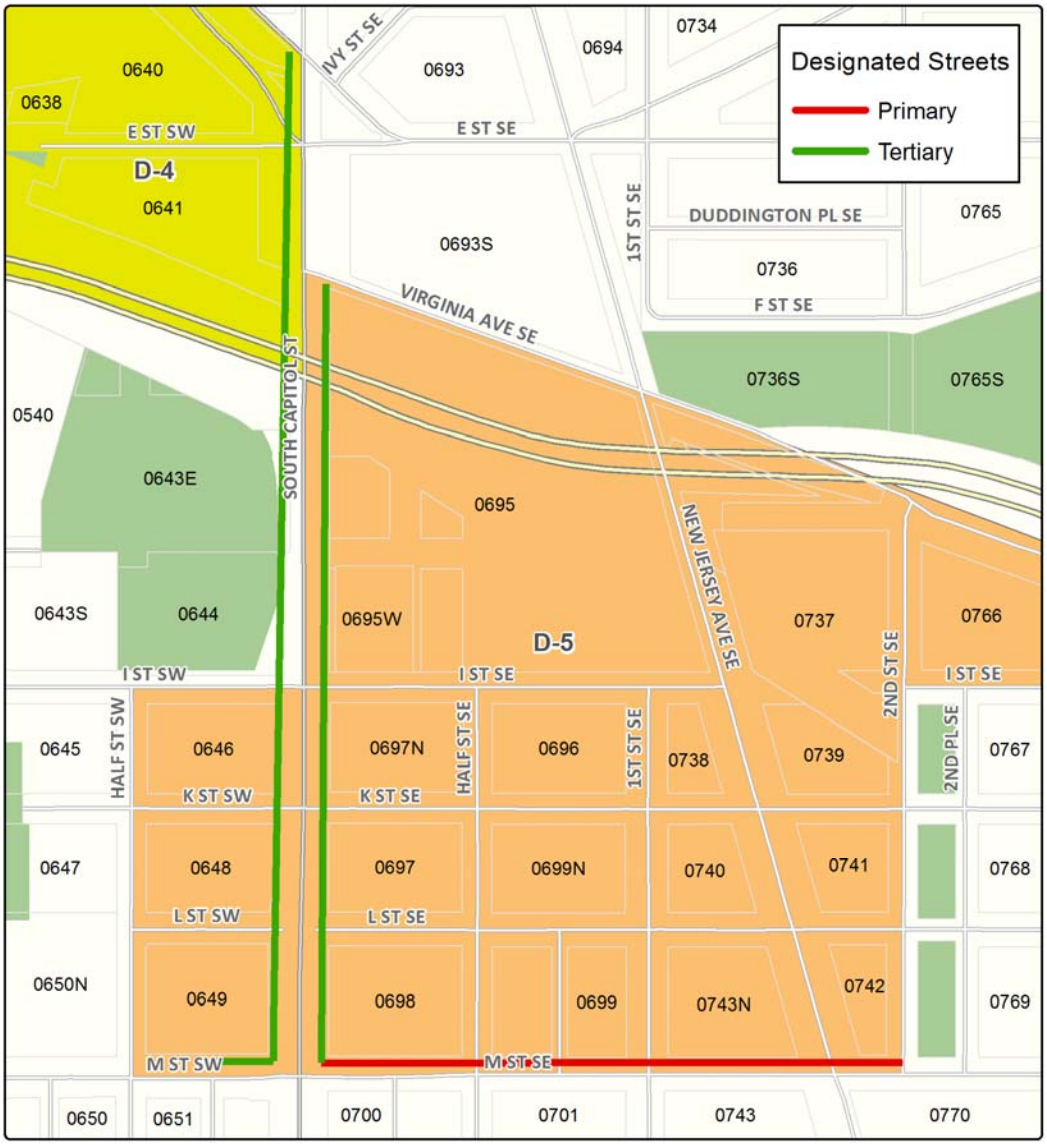
616 M AND SOUTH CAPITOL STREETS SUB-AREA

616.1 The objectives of the M and South Capitol Streets Sub-Area are to ensure the preservation of the historically important axial view of the Capitol Dome and further the development of a high-density mixed-use corridor north of the Capitol Gateway neighborhood.

616.2 The general location of the M and South Capitol Streets Sub-Area is the D-5 zoned property with frontage on either side of the designated tertiary street segments of South Capitol Street corridor north of M Street, as indicated with the

green lines in Figure I § 616: Illustration of the M and South Capitol Streets Sub-Area and Designated Street Segments, and the D-5 zone property with frontage on the designated primary street segments on the north side of M Street, S.E., between South Capitol Street and the Canal Blocks Park, as indicated by the red line in Figure I § 616, and detailed in Subtitle I § 616.3, including all or parts of Squares 640, 641, 643E, 644, 646, 648 649, 695, 695W, 697N, 697, 698, 699, 742, and 743N.

FIGURE I § 615: ILLUSTRATION OF THE M AND SOUTH CAPITOL STREETS SUB-AREA AND DESIGNATED STREET SEGMENTS



616.3 The M and South Capitol Streets Sub-Area includes the following designated street segments and adjacent zoning:

TABLE I § 616.3: M AND SOUTH CAPITOL STREETS SUB-AREA DESIGNATED STREET SEGMENTS AND ADJACENT ZONING

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
South Capitol St.	West	D-5	Washington Ave., S.W	M St., S.W.	Tertiary; with Design Review
South Capitol St.	East	D-5	Virginia Ave., S.E.	M St., S.E.	Tertiary; with Design Review
M St., S.E.	North	D-5	2nd St., S.E.	South Capitol St., S.E.	Primary
M St., S.W.	North	D-5	South Capitol St., S.W.	200 ft. west of the centerline of South Capitol St., S.W.	Tertiary

616.4 The uses for a building with frontage on a designated primary street segment is governed by Subtitle I § 601.

616.5 The uses for a building with frontage on a designated tertiary street segment are governed by the zone district.

616.6 A building with frontage on the designated primary street segments of M Street, S.E. shall:

(a) Follow the design regulations in Subtitle I § 602;

(b) Setback the entire length and height of each building face fronting on M Street, S.E., not less than fifteen feet (15 ft.), as measured from the face of the adjacent curb; and

(c) Be subject to review of its proposed ground floor uses by the Zoning Commission, simultaneous with its review under Subtitle I § 616.8.

616.7 The streetwall on the eastern and western sides of South Capitol Street shall be set back for its entire height and frontage not less than fifteen feet (15 ft.), from the property line adjacent to South Capitol Street, with the following exceptions:

(a) There shall be no setback on the west side of South Capitol Street in Square 649 between L and M Streets, S.W.;

(b) There shall be a setback of seventy-three and one-half feet (73.5 ft.) from the centerline of South Capitol Street on its west side in Square 648 between K and L Streets, S.W.;

(c) There shall be a setback of eighty-one feet (81 ft.) from the centerline of South Capitol Street on its west side in Square 643 between I Street and I-395;

(d) Any portion of a building that exceeds one hundred ten feet (110 ft.) in height shall provide an additional one-to-one (1:1) setback from the building line along South Capitol Street;

(e) There shall be no openings in building frontages adjacent to South Capitol Street that provide entrances or exits for vehicular parking or loading;

(f) A minimum of seventy-five percent (75%) of the street-wall on the east side of South Capitol Street shall be constructed on the setback line; and

(g) A minimum of sixty percent (60%) of the street-wall on the west side of South Capitol Street shall be constructed on the setback line.

616.8 All proposed buildings and structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior designs facing the street segments in the sub-area shall be subject to review and approval by the Zoning Commission in accordance with the provisions in Subtitle I, Chapter 7.

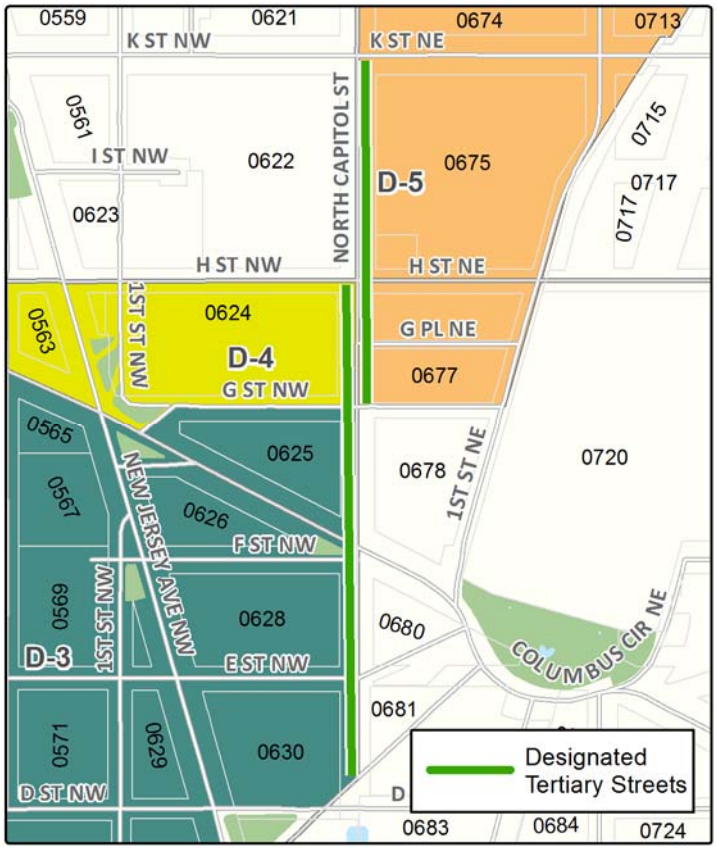
SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

617 NORTH CAPITOL STREET CORRIDOR SUB-AREA

617.1 The objective of the North Capitol Street Corridor Sub-Area is to ensure the preservation of the historically important axial view of the Capitol Dome,

617.2 The general location of the North Capitol Street Corridor Sub-Area is one (1) or both sides of the designated primary street segments North Capitol Street between Louisiana Avenue, N.W. and K Streets, N.W. and N.E., indicated with green lines in Figure I § 617: Illustration of the North Capitol Street Corridor Sub-Area and Designated Street Segments, and detailed in Subtitle I § 617.3 and including all or parts of Squares: 624, 625, 626, 628, 630, 675, 676, and 677.

FIGURE I § 617: ILLUSTRATION OF THE NORTH CAPITOL STREET CORRIDOR SUB-AREA AND DESIGNATED STREET SEGMENTS



617.3 The North Capitol Street Corridor Sub-Area includes the following designated street segments and adjacent zoning:

TABLE I § 617.3: NORTH CAPITOL STREET CORRIDOR SUB-AREA DESIGNATED STREET SEGMENTS AND ADJACENT ZONING

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
North Capitol St.	West	D-4	H Street, N.W.	G Street, N.W.	Tertiary
North Capitol St.	West	D-3	G Street, N.W.	D Street, N.W.	Tertiary; (also in Capitol Security Sub-Area)
North Capitol St.	East	D-5	K Street, N.E.	G Street, N.E.	Tertiary

617.4 The zone district use regulations shall govern uses in a building with frontage on a designated street segment.

617.5 Not less than seventy-five percent (75%) of each newly constructed building wall to a height of at least fifteen feet (15 ft.) that fronts a designated tertiary street segment shall be constructed to, or within four feet (4 ft.) of, the property line between the subject lot and the abutting street right-of-way.

617.6 Any portion of a building frontage on a designated tertiary street that exceeds one hundred ten feet (110 ft.) in height shall provide an additional one-to-one (1:1) setback from the building line along North Capitol Street.

617.7 All proposed buildings, and structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior designs facing the street segments noted in Subtitle I § 618.4 shall be subject to review and approval by the Zoning Commission in accordance with the provisions in Subtitle I, Chapter 7.

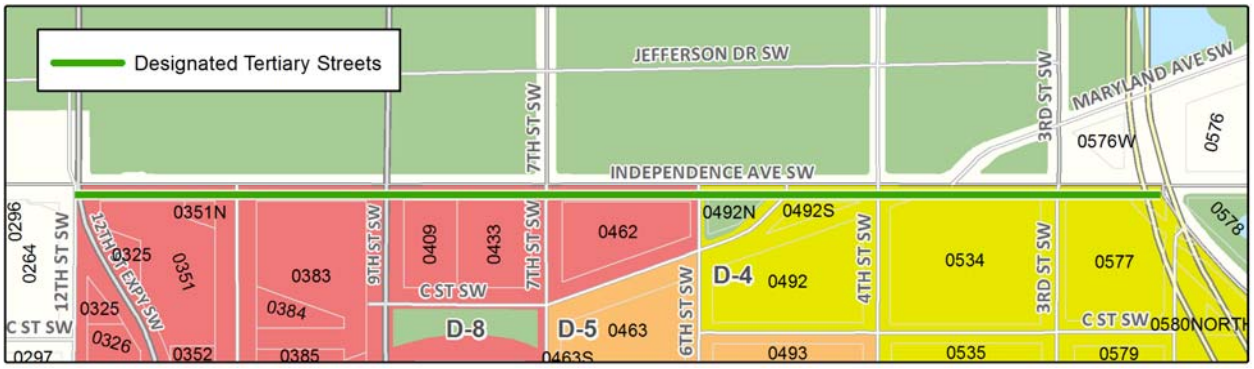
SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

618 INDEPENDENCE AVENUE

618.1 The objective of the Independence Avenue Sub-Area is to protect the viewshed of the National Mall.

618.2 The general location of the Independence Avenue Sub-Area is the property with frontage on the designated tertiary street of Independence Avenue, S.W., between 2nd and 12th Streets, S.W., including all or parts of Squares 351, 351N, 383, 409, 433, 462N, 492N, 492, 534, and 577, as indicated with the green line Figure I § 618: Illustration of the Independence Avenue Sub-Area and Designated Street Segments, and as detailed in Subtitle I § 618.3.

FIGURE I § 618: ILLUSTRATION OF THE INDEPENDENCE AVENUE SUB-AREA AND DESIGNATED STREET SEGMENTS



618.3 The Independence Avenue Sub-Area includes the following designated street segments and adjacent zoning:

TABLE I § 617.3: INDEPENDENCE AVENUE SUB-AREA DESIGNATED STREET SEGMENTS AND ADJACENT ZONING

Designated Street	Side of Street	Adjacent Zone	Segment Boundary 1 (northern or eastern)	Segment Boundary 2 (southern or western)	Segment Classification
Independence Ave., S.W.	South	D-4	Washington Ave/3rd St. S.W.	6th Street, S.W.	Tertiary; (also Capitol Security Sub-Area between Washington Ave. and 3rd St., S.W.
Independence Ave., S.W.	South	D-8	6th Street, S.W.	12th Street, S.W.	Tertiary

618.4 The use regulations for a building with frontage on a designated street segment are those applicable to the zone.

618.5 A building or structure with frontage on Independence Avenue, S.W.in the sub-area:

(a) Shall have a building setback of eighty-eight feet (88 ft.) from the centerline of Independence Avenue;

(b) Shall setback, at a one-to-one (1:1) ratio from the face of the building's frontage on Independence Avenue, S.W., the height of any building story more than one-hundred ten feet (110 ft.), as measured from the building line on Independence Avenue;

(c) Shall setback any penthouse at a two-to-one (2:1) ratio from each exterior wall of the roof upon which it is located;

(d) Shall not have the total area of structures listed in Subtitle I § 618.5(c) exceed one-third (1/3) of the total roof area upon which it or they are located;

(e) Shall have all mechanical equipment placed in one (1) enclosure that shall harmonize with the main structure in architectural character, material and color;

(f) Shall not include any tower, dome, minaret or other architectural embellishment taller than the main building; and

(g) Shall complement, not compete with, the Smithsonian buildings when viewed from the National Mall and Independence Avenue, S.W.

618.6 All proposed buildings, and structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior designs facing the street segments noted in Subtitle I § 618.4 shall be subject to review and approval by the Zoning Commission in accordance with the

provisions in Subtitle I, Chapter 7, and, if located between 6th and 12th Streets, S.W., shall be referred to the National Capital Planning Commission for comment.

CHAPTER 7 DESIGN REVIEW

700 INTRODUCTION TO DESIGN REVIEW REGULATIONS

700.1 The purpose of this chapter is to identify the D zones that require developments to undergo design review and the triggers for the requirement.

701 ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES, AND USES

701.1 The provisions of Subtitle I, Chapter 7 apply to a new building or structure or building addition that has frontage on a designated street segment within the M and South Capitol Streets Sub-Area, the Independence Avenue Sub-Area, the North Capitol Street Sub-Area, or within a D zone and with frontage on North Capitol Street south of M Street, N.W., and to buildings seeking additional height pursuant to Subtitle I § 525.2.

701.2 All proposed uses, site plans, buildings, and structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior design to any property within an area listed in Subtitle I § 702.1(a), shall be subject to review and approval by the Zoning Commission in accordance with the following provisions:

(a) In addition to proving that the proposed use, building, or structure meets the special exception standards set forth in Subtitle X, Chapter 9, an applicant requesting approval under this section shall prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will:

(1) Help achieve the objectives of the sub-area, as set forth in Subtitle I, Chapter 6, in which it is located;

(2) Be in context with the surrounding neighborhood and street patterns;

(3) Minimize conflict between vehicles and pedestrians;

(4) Minimize unarticulated blank walls adjacent to public spaces through facade articulation; and

(5) Minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards; and

(b) With respect to a building or structure in a D zone that has frontage on South Capitol Street, S.E. or North Capitol Street south of M Street, N.W.:

(1) The building or structure shall incorporate massing, materials, and buildings and streetscape landscaping to further the design and development of properties in a manner that is sensitive to the establishment of, respectively, South Capitol Street or North Capitol Street as monumental civic boulevards;

(2) The building or structure shall incorporate massing, location of access to parking and loading, and location of service areas to recognize the proximate residential neighborhood use and context, as applicable; and

(3) The application shall include a view analysis that assesses openness of views and vistas around, including views toward the Capitol Dome and other federal monumental buildings.

701.3 The Zoning Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property. Such requests shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

701.4 At the time of filing an application with the Zoning Commission, the applicant shall pay the filing fees to the Office of Zoning pursuant to Subtitle Z, Chapter 16, plus such fees as apply to any additional zoning relief requested.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 8 GENERATION AND CERTIFICATION OF CREDITS

800 INTRODUCTION TO THE CREDIT SYSTEM

800.1 Within the D zones, market forces or other conditions may favor the development of one (1) type of use over another in an area at any given time. To help ensure the provision of the range of uses essential to a successful downtown, Subtitle I, Chapters 8 and 9 provide for the generation and use of a credit system to incentivize the development of a mix of uses in the D zones.

800.2 A credit is generated by the development of residential, arts, or preferred uses, pursuant to Subtitle I §§ 802 through 804, on a lot, and may also be generated on historic properties under the circumstances described in Subtitle I § 807.

800.3 Properties that generated allocable gross floor area, either as Transferable Development Rights ("TDR") or Combined Lot Development ("CLD") rights under Chapter 17 of the 1958 Zoning Regulations as the result of the recordation of a covenant required by that chapter, may have those CLD or TDR Rights converted to credits pursuant to Subtitle I § 806 to the extent the Rights were not allocated prior to the effective date of this title to another lot or, also in the case of TDR Rights, to an individual for future re-transfer ("Unallocated TDR/CLD Rights"). To be recognized as an Unallocated TDR/CLD Right, the TDR or CLD covenant must have included a declaration binding present and future owners to reserve and maintain in perpetuity the square footage of the uses that generated the TDR/CLD Rights for which conversion is sought.

800.4 Any CLD Right allocated to a lot by a recorded CLD covenant or any TDR Right allocated to a lot or an individual pursuant to a certificate of transfer of transferrable development rights made pursuant to the 1958 Regulations ("Allocated TDR/CLD Rights") is fully vested and may be used for the purposes authorized the 1958 Zoning Regulations; provided that the recordation of the covenant or certificate occurred prior to the effective date of this title.

800.5 Rules governing the use of credits are set forth in Subtitle I § 901.

801 ACTIONS THAT GENERATE CREDITS

801.1 In the D-3 through D-8 zones, credits shall be generated by:

(a) The development of residential gross floor area, where either none is required or where the new residential gross floor area exceeds the minimum on-site residential requirements in Subtitle I, Chapter 5, pursuant to Subtitle I § 802;

(b) The development in the Downtown Arts Sub-Area of arts-related space, as defined in Subtitle I § 607.5, that exceeds the minimum on-site requirements of Subtitle I § 607, pursuant to Subtitle I § 803;

(c) The full rehabilitation of an "historic resource" as the quoted term is described in Subtitle I § 807.3, or a building that received its first certificate of occupancy prior to 1936, such properties relinquish unused development rights pursuant to Subtitle I § 807;

(d) The conversion of unallocated transferable development rights (as described in Subtitle I § 800.2), pursuant to Subtitle I § 806;

(e) The conversion of unallocated combined lot development rights (as described in Subtitle I § 800.2), pursuant to Subtitle I § 806; and

(f) The development of space within the Downtown Retail Core, Downtown Arts, or Chinatown Sub-Areas devoted to the following preferred uses pursuant to Subtitle I § 804:

(1) A licensed child development center or child development home; or

(2) A Certified Business Enterprise (CBE).

801.2 Each property is eligible to generate credits only once, unless:

(a) The use which originally generated credits has been in continual operation and is expanded in size;

(b) A new credit-generating use is added to the property and the use which originally generated credits remains in continual operation and is not decreased in size; or

(c) A new, larger credit-generating use replaces the credit-generating use which originally generated credits, in which case the net increase in credit-generating floor area may be used to generate additional credits.

802 GENERATION OF CREDITS BY RESIDENTIAL DEVELOPMENT

802.1 Except as provided in Subtitle I § 802.3, credits may be generated by a residential use in a building for which construction began after January 18, 1991 located in a D-4-R, D-5-R, or D-6-R zone if the residential use did not generate Unallocated or Allocated CLD Rights as described in Subtitle I §§ 800.3 and 800.4, respectively; or by a residential use developed on or after the effective date of this title in a new or existing buildings all other I zones except D-1-R or D-2 zones where properties may not generate credits.

802.2 One (1) credit shall be generated for each square foot of eligible residential gross floor area (GFA) constructed, except that two (2) credits shall be generated in the following circumstances:

(a) For projects subject to Subtitle C, Chapter 10, Inclusionary Zoning, two (2) credits shall be developed for each square foot of eligible GFA reserved for low-income households;

(b) For projects not subject to Subtitle C, Chapter 10, Inclusionary Zoning, two (2) credits shall be generated for each square foot of eligible GFA reserved for moderate-income households;

(c) For historic landmarks or contributing buildings in historic districts, two (2) credits shall be generated for each square foot of non-residential use converted to residential use;

(d) For a building south of Massachusetts Avenue located on a property zoned D-4-R or D-5-R and within Squares 247, 283, 284, 316, 317, 342, 343, 371, 372, 374, 427, 428, 452, 453, 485, 486, 517, or 529; or for the commercial and underdeveloped properties in Square 247 with an approved plan unit development on or before January 18, 1991, for so long as the planned unit development approval remains valid; and

(e) For a building south of H Street zoned D-6-R and within Squares 377 (Lots 36, 37, 42, 806, 828, 829, 847, and 848), 406, 407, 408, 431, 432, 454, 455, 456, 457, 458, 459, 460, and 491.

802.3 No credits shall be generated as the result of residential uses developed in any building owned or leased by any education use developed for the purpose of housing students enrolled in the school.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

803 GENERATION OF CREDITS BY ARTS USES

803.1 For a building in the Downtown Arts Sub-Area regulated by Subtitle I § 607, arts use developed in a new or existing building on or after the effective date of this title may generate credits for new arts use GFA or FAER that exceeds the minimum arts use requirement for the sub-area.

803.2 One (1) credit shall be generated for each square foot of eligible arts GFA or FAER and an additional credit shall be generated for:

(a) Each square foot of non-residential use converted to arts use square footage in historic landmarks or contributing buildings in historic districts;

(b) Each square foot of arts use space owned or leased by a CBE, or for a non-profit entity;

(c) Each square foot of arts use space with a clear height of greater than fourteen feet (14 ft.);

(d) Each square foot of arts uses listed in Subtitle U §§ 720.1(a), (h) or (i); and

(e) Each square foot of arts uses listed in Subtitle U §§ 720.1(c)(5) through (c)(7), (f), or (h), in excess of forty thousand gross square footage (40,000 gsf.) and located on a single record lot.

804 GENERATION OF CREDITS BY PREFERRED USES

804.1 Within the Downtown Retail Core, Downtown Arts, and Chinatown Sub-Areas, one (1) credit shall be generated for each square foot of gross floor area permanently set-aside for a child development center, child development home, or CBE on or after the effective date of this title on property that is not in government or foreign mission ownership.

804.2 The credit shall not be available for a CBE that has generated credits for an arts use pursuant to Subtitle I § 803.2(b).

805 ACKNOWLEDGMENT OF RESIDENTIAL, ARTS, AND PREFERRED USE CREDITS

805.1 No credits generated by residential, arts, or preferred uses may be transferred unless the generation of credits has been acknowledged by the Zoning Administrator by a covenant filed with the Zoning Administrator and recorded in the land records of the District of Columbia.

805.2 The covenant shall be for the benefit of the District of Columbia, signed by the owner of the property generating the credits and the owner of the credits, if different, and shall burden the generating lot and present and future owners to reserve and maintain in perpetuity the square footage of uses that generated the credits.

805.3 The Zoning Administrator, in his or her discretion, may request their General Counsel or the Office of the Attorney General to undertake a legal sufficiency review.

805.4 The covenant shall be signed by the Zoning Administrator as evidence of its compliance with the provisions of this chapter.

805.5 The signature of the Mayor of the District of Columbia is not required.

805.6 Upon notification by the Zoning Administrator that the covenant has been signed, the owner of the credits shall take the covenant to the Recorder of Deeds, who shall record the covenant with the lot that generated the credit and provide the owner with two (2) certified copies of the certificate.

805.7 The owner of the credits shall provide one (1) certified copy of the covenant to the Zoning Administrator and one (1) to the Office of Planning.

805.8 The covenant shall be effective as of the recordation date of the certificate unless a later time is requested by the owner of the credits.

805.9 The procedures for transferring and re-transferring credits acknowledged by the covenant is described in Subtitle I §§ 901 and 902.

805.10 The covenant shall, at a minimum, contain the following information or attachments:

(a) Name and contact information for the person or entity that will own the generated credits;

(b) Name and contact information for, and signature of, the person or entity owning the property upon which the project that generated the credits is located, if different than in Subtitle I § 805.9(a);

(c) If the credits are claimed to be owned by a person who does not also own the property that generated the credits, proof that the person or entity owns the credits and a provisions indemnifying the District of Columbia against any and all claims by persons or entities claiming to own the credits;

(d) A map and plat of the lot;

(e) Legal description and street address of the lot;

(f) Surveyed area of the lot;

(g) Gross floor area calculations for the entire building and for each portion of the building that will be occupied by the residential, arts, or preferred uses that generate the credits;

(h) The FAR limits applicable to the lot including FAR limits for non-residential uses and minimum FAR requirements for residential uses and for arts uses;

(i) Calculation of and basis for credits generated;

(j) A form Certificate of Credit Transfer as described in Subtitle I § 901.3(e) to be used for any transfer of credits under the covenant;

(k) A certificate of occupancy for the use except that for credits generated by development of residential gross floor area the covenant may include either:

(1) A certification by the project architect that construction of the residential use is fifty percent (50%) complete; or

(2) Proof that an escrow account has been established with a financial institution, including a title insurance company, that is recognized to be in good standing by the District of Columbia or other jurisdiction in which it conducts business that is funded in accordance with Subtitle I § 805.7;

(l) In the case of a child development center or child development home, a certification by the Director of the Department of Human Services that the facility meets standards for a child development center or child development home;

(m) In the case of a CBE, a certification from the Director of the Department of Small and Local Business Development business occupying the space has been certified as a local, small or disadvantaged business enterprise;

(n) Signatures of the owners of the generating lot and the owners of the credits, if different; and

(o) Any additional information required by the Zoning Administrator.

805.11 If the owner of the credits intends to satisfy the requirement of Subtitle I § 805.9(l) through the funding of an escrow, as permitted by Subtitle I § 805.9(i)(2), the covenant shall contain:

(a) An acknowledgment by the owner of the credits that it has voluntarily established or consented to the establishment of an escrow account;

(b) An attached escrow agreement that, among other things, requires the release of the escrow funds and any accrued interest thereon as a fee to be paid to the D.C. Housing Production Trust Fund, or other entity as directed by the Zoning Commission, under the circumstances stated in Subtitle I § 805.12(b);

(c) An acknowledgment by the owner of the property generating the credits that the provision of an escrow neither negates the present or future owners' obligations under the covenant and this chapter to reserve and maintain in perpetuity an area on the lot generating the credits equal to the gross floor area of residential gross floor area generating the credits, nor constitutes such an extraordinary or exceptional circumstance or condition as to justify the grant of a variance from the strict application of the requirements of this chapter;

(d) A certification by the financial institution of the amount of funds received; and

(e) An acknowledgment by the financial institution that the funds will be disbursed only in accordance with the mandatory escrow terms in Subtitle I § 805.8.

805.12 The escrowed funds shall be equal to the amount computed according to either the formula E = GFA (AV / LA) / NRFAR x 50%, or the formula E = GFA x $30, whichever is less, where:

(a) E = The amount deposited into escrow;

(b) GFA = The gross floor area in square feet of additional nonresidential uses that will be achieved on the lot using the credits above that which the lot would have been permitted as a matter of right;

(c) AV = The total assessed value as is indicated on the records of the Office of Tax and Revenue of the lot using the credits as of thirty (30) days prior to the escrow funding date;

(d) LA = The number of square feet of land included in the lot using the credits;

(e) NRFAR = The permitted nonresidential FAR before the transfer; and

(f) 50% = The proportion of commercial value that has been determined to be appropriate for the escrow.

805.13 The escrow account agreement shall include terms providing that:

(a) Upon certification by the project architect to both the financial institution holding the funds and the Zoning Administrator that construction of all the residential uses required for the credits are at least fifty percent (50%) complete on the receiving lot, the funds held in the escrow account shall be disbursed in accordance with the applicable terms of the escrow agreement; and

(b) If the above certification is not made within five (5) years after the filing date of the credit, or such further period of time as may have been permitted by the Zoning Commission pursuant to Subtitle I § 805.8, escrowed funds and any accrued interest shall be paid as fee to the District of Columbia Housing Production Trust Fund and designated for the financing of housing in the same Trade Area as the generating lot. The escrow agent shall advise the Zoning Commission if the funds cannot be released in accordance with this provision and, in that event, shall release the funds as the Zoning Commission may thereafter direct, consistent with the purposes of this chapter.

805.14 The owner of the credits may request the Zoning Commission to allow an additional period, up to a maximum of three (3) years, to make the certification

set forth in Subtitle I § 805.8(a). The request shall identify why the certification could not be made within the five (5)-year period provided and be accompanied by a timetable for construction and occupancy of the residential uses required for the credit. The Zoning Commission may grant the request upon a showing that the owner of the property generating the credits has proceeded with due diligence and in good faith in constructing the required residential uses.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

806 GENERATION AND CERTIFICATION OF CREDITS FOR TDR OR CLD CONVERSION

806.1 Any Unallocated TDR or CLD Rights as described in Subtitle I § 800.3 shall convert to credits at a rate of one-to-one (1:1).

806.2 The conversion of Unallocated TDR and CLD Rights shall be effectuated through the issuance by the Zoning Administrator of a Certificate of Credit Conversion. When a property has generated both Unallocated TDR and CLD Rights, separate certificates are required for each type of conversion.

806.3 A Certificate of Credit Conversion may be requested in writing by the individual or entity that owns the Unallocated TDR or CLD Rights. The request shall be accompanied by:

(a) A copy of the recorded TDR covenant or CLD covenants that acknowledges the generation of the unallocated rights;

(b) An updated property description if the legal description of the property if such description has changed since the covenant was recorded;

(c) If requested by the owner of the property that generated the Unallocated CLDs or TDR Rights, a deed identifying that person or entity as the owner;

(d) If requested by a non-owner of the property, proof that the person or entity owns the Unallocated TDRs and CLD Rights, and a statement indemnifying the District of Columbia against any and all claims by persons or entities claiming to own such TDR or CLD rights;

(e) For TDR's, any certificates of transfer or re-retransfer made pursuant to the covenant and a sworn certification that no other allocations have been made other than as described in the certificates;

(f) For CLDs, any other CLD covenant that allocated the CLDs to one (1) or more lots and a sworn certification that no other allocations of CLDs have been made other than as described in the first and any subsequent CLD covenants;

(g) A written summary indicating the gross floor area of TDRs or CLDs acknowledged by the covenant(s), the gross floor area of any TDRs previously transferred by the attached certificates of transfer(s), the gross floor area allocated by the CLD covenant(s) to other lots, and the gross floor area that remains eligible for allocations as Unallocated TDR or CLD Rights, which are to be converted, and for which the Certificate of Credit Conversion is requested;

(h) A form Certificate of Credit Transfer as described in Subtitle I § 901.3(e) to be used for any transfer of credits under the Certificate of Credit Conversion; and

(i) A form Certificate of Credit Retransfer as described in Subtitle I § 902.3(d) to be used for any retransfer of credits under any Certificate of Credit Transfer.

806.4 The Certificate of Credit Conversion shall be signed by the Zoning Administrator and indicate:

(a) The name and contact information for the person owning the converted Unallocated TDR or CLD Rights;

(b) A description of the property that generated the converted Unallocated TDR or CLD Rights, including the trade area in which it is located;

(c) The recordation information of the covenant that acknowledge the generation of the converted Unallocated TDR or CLDs;

(d) The number of credits certified;

(e) The trade area(s) in which certified credits may be used; and

(f) The purpose(s) for which the certified credits may be used.

806.5 The owner of the Unallocated TDR or CLD Rights, upon notification by the Zoning Administrator that the Certificate of Credit Conversion has been signed, shall take the Certificate of Credit Conversion to the Recorder of Deeds, who shall record the certificate the lot that generated the converted Unallocated TDR or CLD Rights and provide the owner with two (2) certified copies of the certificate.

806.6 The owner of the converted Unallocated TDR or CLD Rights shall provide one (1) certified copy of the Certificate of Credit Conversion to the Zoning Administrator and one (1) to the Office of Planning.

806.7 The Certificate of Credit Conversion shall be effective as of the recordation date of the certificate unless a later time is requested by the owner of the converted Unallocated TDR or CLD Rights.

806.8 The procedures for transferring and re-transferring credits certified by a Certificate of Credit Conversion is described in Subtitle I §§ 901 and 902.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

807 GENERATION AND CERTIFICATION OF CREDITS FOR HISTORIC PRESERVATION

807.1 The purpose of this section is to:

(a) Preserve the unique character and fabric of historic landmarks and historic districts in the D zones;

(b) Encourage the retention and enhancement of historic buildings, together with compatible alterations and compatible new construction;

(c) Establish appropriate allowances for building bulk on lots with historic buildings so as to encourage preservation of whole buildings and ensure a suitable scale of new construction in historic districts, especially in projects combining new development with preservation;

(d) Provide appropriate economic incentives to encourage preservation and adaptation of historic buildings for current use, and the restoration of historic landmarks;

(e) Promote compatible new construction by allowing flexibility in rear yard and court requirements, in keeping with objectives for the preservation and enhancement of historic buildings and districts; and

(f) Encourage occupancy of historic buildings by small businesses and active uses such as arts, cultural, entertainment, retail, and housing, in keeping with the potential of historic buildings to make multiple contributions to the character of downtown.

807.2 This section applies to lots containing historic resources or to lots containing a non-historic building that received its first certificate of occupancy prior to 1936.

807.3 For the purposes of this section, a historic resource is a building or structure listed in the District of Columbia Inventory of Historic Sites or a building or structure certified in writing by the State Historic Preservation Officer as contributing to the character of the historic district in which it is located.

807.4 A building described in Subtitle I § 807.2 or Subtitle I § 807.3 shall generate one (1) credit for each square foot of undeveloped gross floor area, up to an additional 4.0 FAR, provided:

(a) The property is not in government or foreign mission ownership;

(b) The historic resource is fully rehabilitated pursuant to the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Official Code §§ 6-1101 to 6-1115) ("The Historic Preservation Act"), and this chapter;

(c) A non-historic building that received its first certificate of occupancy prior to 1936 is fully rehabilitated according to plans approved by the State Historic Preservation Officer;

(d) The State Historic Preservation Officer has certified in writing to the Zoning Administrator that rehabilitation has been completed pursuant to the approved plans; and

(e) The historic resource has not been fully rehabilitated pursuant to plans approved in accordance with the Historic Protection Act prior to January 18, 1981.

807.5 For the purposes of determining the unused development rights that generate credits, the matter-of-right densities of the applicable underlying zone districts are deemed to be 6.0 FAR in the D-1 and D-2 zones; 6.5 FAR in the D-3, D-4, D-5, and D-8 zones; and, in the D-6 and D-7 zones, 8.5 FAR for properties fronting on streets with a right-of-way less than one hundred ten feet (110 ft.) wide, or 10.0 FAR for properties fronting on streets with a right-of-way at least one hundred ten feet (110 ft.) wide.

807.6 A project that removes any incompatible intrusion into a street right-of-way of the L'Enfant Plan of Washington, as determined by the Historic Preservation Review Board, may generate additional credits by an amount equal to the gross floor area of the removed intrusion, provided the right-of-way is returned to public jurisdiction, or the property owner executes a covenant that runs with the land permanently foregoing construction above grade within the historic right-of-way.

807.7 No credits generated under this section may be transferred unless the Zoning Administrator has acknowledged the generation of the credits in a covenant, filed with the Zoning Administrator and recorded in the land records of the District of Columbia, that:

(a) Effects a binding reduction in the unused development rights under the Zoning Regulations otherwise available to the lot, to the extent of the credits generated; and

(b) Requires completion of the restoration of the historic resource, the non-historic building meeting the requirements of Subtitle I § 807.2, or parts thereof pursuant to plans approved by the Historic Preservation Review Board or the Mayor's Agent for Historic Preservation as required by the Historic Preservation Act.

807.8 For the purposes of administering Subtitle I § 807.7, the Historic Preservation Division, Office of Planning, shall certify in writing to the Zoning Administrator that restoration has been completed pursuant to plans approved as consistent with the Historic Preservation Act.

807.9 Prior to the completion of restoration as certified in Subtitle I § 807.8, one (1) or more Certificates of Credit Transfer described in Subtitle I § 901 may be executed pursuant to a recorded covenant as described in Subtitle I § 807.7 following issuance of a building permit for the credit-sending lot containing the historic resource or the non-historic building meeting the requirements Subtitle I § 807.2, but a certificate of occupancy for the credits on the credit-receiving lot shall not be issued until the restoration of the sending lot's historic resource or non-historic building meeting the requirements Subtitle I § 807.2 has been certified, as provided for in Subtitle I § 807.8.

807.10 After the completion of restoration has been certified, any credits shall vest in the receiving lot without any relationship to the status of the sending lot.

807.11 Notwithstanding the requirements of Subtitle I §§ 807.9 and 807.10, up to twenty-five percent (25%) of the credits that the sending lot is eligible for may be transferred to and fully vest in a receiving lot under the following conditions:

(a) The Certificates of Credit Transfer described in Subtitle I § 901 shall include a requirement that the monetary proceeds of the sale of credits shall be utilized by the owner of the generating lot exclusively for the cost of design and rehabilitation of the historic building;

(b) If the financial proceeds of the transfer exceed the total cost of design and construction on the sending lot, the instrument of transfer shall provide that full funding of design and construction shall be reserved, together with a draw schedule and timetable for the construction work, prior to any other use of the funds in excess of that required for design and construction; and

(c) The State Historic Preservation Officer has certified to the Zoning Administrator that the allocation of funds and draw schedule provided pursuant to Subtitle I § 806.7(c) are sufficient to allow the completion of the project.

807.12 A request for approval of the covenant described in Subtitle I § 807.7 may be made at any point after the rehabilitation is fifty percent (50%) complete.

807.13 The request shall be filed by the person owning the property that generated the credits, or the person's agent and, at a minimum, contain the following information:

(a) Name and contact information for the person or entity that will own the generated credits;

(b) Name and contact information for, and signature of, the person or entity owning the property that generated the credit, if different than in Subtitle I § 807.13(a);

(c) Legal description and street address of the lot or lots;

(d) Surveyed area of the lot or lots;

(e) Gross floor area calculations for the entire building or buildings and for each use;

(f) Zoning requirement on the lot including total FAR limits, FAR limits for non-residential uses and FAR limits for historic structures;

(g) Trade area designation and map for the lot or lots;

(h) Calculation of credits generated; and

(i) The building permit issued for the project including the plans approved by the Mayor's Agent for Historic Preservation pursuant to the Historic Protection Act.

807.14 The Zoning Administrator, in his or her discretion, may request their General Counsel or the Office of the Attorney General to undertake a legal sufficiency review.

807.15 The covenant shall be signed by the Zoning Administrator and the State Historic Preservation Office as evidence of its compliance with the provisions of this chapter

807.16 The signature of the Mayor of the District of Columbia is not required.

807.17 The owner of the credits, upon notification by the Zoning Administrator that the covenant has been signed, shall take the covenant to the Recorder of Deeds, who shall record the covenant with the lot that generated the credit and provide the owner with two (2) certified copies of the certificate.

807.18 The owner of the credits shall provide one (1) certified copy of the covenant to the Zoning Administrator and one (1) to the Office of Planning.

807.19 The covenant shall be effective as of the recordation date of the covenant unless a later time is requested by the owner of the credits.

CHAPTER 9 USE OF CREDITS

900 GENERAL REQUIREMENTS AND RESTRICTIONS

900.1 Subject to the limitations of this chapter, credits generated by the actions described in Subtitle I, Chapter 8 may be used to:

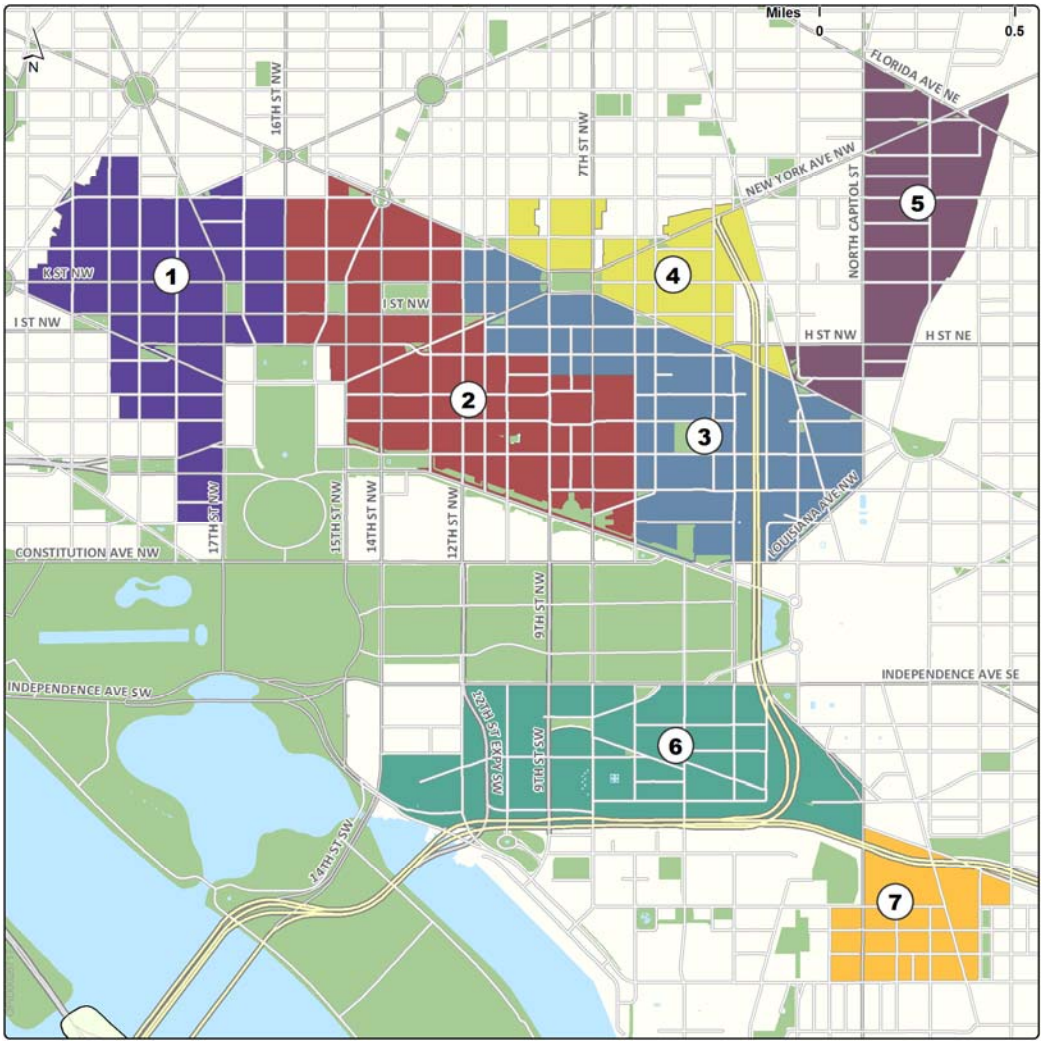
(a) Reduce the amount of gross floor area of the residential use required in a building located in the D-4-R, D-5-R, or the D-6-R, or reduce the amount of gross floor area of Arts use in a building located in the Downtown Arts Sub-area regulated by Subtitle I § 607;

(b) Construct non-residential gross floor area in excess of the maximum permitted non-residential density in the D-3 through D-8 zones either on site or within an allowed trade area, equivalent to the number of the credits transferred as evidence by one (1) or more credit certificate filed with the building permit application, up to the maximum permitted FAR of the zone; or

(c) Allow for the termination of a covenant recorded pursuant to Subtitle I, Chapter 8 for the acknowledgment of credits in order to permit redevelopment of a site that reduces or eliminates the uses that originally generated the credits.

900.2 Trade areas in the downtown zones are identified in Figure I § 900.2:

FIGURE I § 900.2: CREDIT TRADE AREAS



900.3 Credits generated and acknowledged pursuant to Subtitle I, Chapter 8 may be used for the purposes and within the trade areas identified in the following table.

TABLE I § 900.3: CREDIT-GENERATION, PURPOSES, AND AREAS OF USE

Action Generating Credit	Section in Subtitle I, Chapter 8 Governing the Generation of the Credit	Purpose for which Credit May be Used	Area(s) in which Credit may be used (see Figure I § 900.2)
Development of residential gross floor area where it is not required or that exceeds a minimum residential requirement of Subtitle I, Chapter 5.	§ 802	Construct non-residential gross floor area in excess of the base permitted non-residential density of the D-3 through D-8 zones	Same trade area in which the credits were generated.
		Reduce the residential requirements of the D-4-R, D-5-R, or D-6-R zones.	Same trade area in which the credits were generated.

Action Generating Credit	Section in Subtitle I, Chapter 8 Governing the Generation of the Credit	Purpose for which Credit May be Used	Area(s) in which Credit may be used (see Figure I § 900.2)
Development of arts or arts-related space that exceeds the minimum area requirements of Subtitle I § 607 for such uses in the Downtown Arts Sub-Area .	§ 803	Reduce the Arts sub-area requirements of Subtitle I § 607	Downtown Arts Sub-Area (Subtitle I § 607) of trade area 2
		Construct up to 0.5 FAR non-residential gross floor area in excess of the base permitted non-residential density of the D-3 through D-8 zones	
Historic Preservation rehabilitation	§ 807	Construct non-residential gross floor area in excess of the base permitted non-residential density of the D-3 through D-8 zones up to the limits of Subtitle I, §§ 200.2 and 200.3. Credits cannot reduce residential requirements of the D-4-R, D-5-R, or D-6-R zones	In any trade area
Conversion of transferrable development rights (TDRs) pursuant	§ 806	Construct non-residential gross floor area in excess of the base permitted non-residential density of the D-3 through D-8 zones. Credits cannot reduce residential requirements of the D-4-R, D-5-R, or D-6-R zones	In any trade area
Conversion of unallocated combined lot development (CLD) gross floor area	§ 806	Construct non-residential gross floor area in excess of the base permitted non-residential density of the D-3 through D-8 zones	Same trade area in which the credits were generated
		Reduce the residential requirements of the D-4-R, D-5-R, or D-6-R zones	
Development of child development center, child development home or certified business enterprise in the Downtown Retail Core, Downtown Arts or Chinatown sub-areas of Subtitle I, Chapter 6.	§ 804	Construct up to 0.5 FAR non-residential gross floor area in excess of the base permitted non-residential density of the D-3 through D-8 zones	Same trade area in which the credits were generated

901 TRANSFER OF CREDITS

901.1 Ownership of credits as acknowledged by the Zoning Administrator through a covenant required pursuant to Subtitle I, § 805 (for residential, arts, or preferred uses) and Subtitle I § 807 (for historic preservation) hereinafter collectively referred to as the "Credit Covenant" or acknowledged through the issuance of a Certificate of Credit Conversion pursuant to Subtitle I § 806 may be transferred

by the owner of such credits at any time to any entity or individual for use on property owned by such entity or individual or for later retransfer to a property pursuant to Subtitle I § 902, provided that the property receiving the credit is located in an eligible trade area.

901.2 A transfer of credit ownership is not effectuated until the Zoning Administrator issues a Certificate of Credit Transfer and that certificate is recorded in the land records of the District of Columbia pursuant to the procedures set forth in this section.

901.3 A request for a Certificate of Credit Transfer shall be made by the owner of the credits and the entity or individual to whom the credits are to be transferred hereinafter collectively referred to as "the applicant", and shall include:

(a) The Credit Covenant or Certificate of Credit Conversion from which the credits are to be transferred;

(b) Any prior Certificate of Credit Transfer from that Credit Covenant or Certificate of Credit Conversion;

(c) A statement by the owner of the credits that the property that generated the credits is in compliance with the Credit Covenant or the CLD or TDR covenant, as applicable;

(d) A statement by the owner of the credits that there have been no prior transfers of credit ownership from the Credit Covenant or Certificate of Credit Conversion or, if there have been prior transfers, the number of credits transferred and the number of credits that remain to be transferred; and

(e) A draft Certificate of Credit Transfer that contains:

(1) The name and contact information for the entity or individual owning the credits as identified in the Credit Covenant or Certificate of Credit Conversion;

(2) The name and contact information for the individual or entity to whom the credits are to be transferred;

(3) A description of the Credit Covenant or Certificate of Credit Conversions from which ownership of the credits is being transferred including:

(A) The date upon which it was recorded in the land records; and

(B) The number of generated credits;

(4) If generated by a Credit Covenant, the action that generated the credits;

(5) The trade area(s) and purposes for which the credits could be used;

(6) Whether any credits have previously been transferred from the Certificate of Credit Transfer or Certificate of Credit Conversion and if so, the number of credits that remain to be transferred;

(7) The number of the credits proposed for transfer;

(8) The number of credits that would remain in possession of the transferring party after the proposed credit transfer;

(9) Whether the transferred credits are to be used on a property owned by the entity or individual to whom the credits are to be transferred or are to be held for retransfer to a property; and

(10) If the credits are to be used on a property:

(A) The legal description of that property; and

(B) The purpose for which the credits are to be used.

901.4 A request for a Certificate of Credit Transfer may be made at the same time as the Credit Covenant is being reviewed, provided that the Credit Covenant must be recorded in the land records prior to or simultaneously with the Certificate of Credit Transfer.

901.5 The Zoning Administrator, in his or her discretion, may request their General Counsel or the Office of the Attorney General to undertake a legal sufficiency review of the draft Certificate of Credit Transfer.

901.6 If approved, the Certificate of Credit Transfer shall be signed by the Zoning Administrator.

901.7 The signature of the Mayor of the District of Columbia is not required.

901.8 The applicant, upon notification by the Zoning Administrator that the Certificate of Credit Transfer has been signed, shall take the Certificate of Credit Transfer to the Recorder of Deeds, who shall record the certificate with the lot that generated the credits, and if applicable, with the lot that is receiving the credits, and provide the applicant with two (2) certified copies of the certificate.

901.9 The applicant shall provide one (1) certified copy to the Zoning Administrator and one (1) to the Office of Planning.

901.10 The transfer shall be effective as of the recordation date of the certificate unless a later time is requested by the applicant.

901.11 If more than one (1) transfer of credits is made from a Credit Covenant or Certificate of Credit Conversion the second Certificate of Credit Transfer and all subsequent Certificates of Credit Transfers shall be numbered "two" (2) and sequentially, and each shall include the names of the transferors and transferees involved in all previous transfers, including the amount of credits transferred and the dates of recordation of each transfer.

901.12 Credits used to achieve non-residential density shall not be retransferred unless the building that utilized the additional density is destroyed or demolished; provided that any such retransfer shall divest the property of the additional density allowed by the credits.

901.13 Credits not used may be retransferred in accordance with the provisions of Subtitle I § 902.

902 RETRANSFER OF CREDITS

902.1 Except as provided in Subtitle I § 901.9, ownership of credits transferred pursuant to a Certificate of Credit Transfer may be retransferred by the owner of such credits at any time to any entity or individual for use on property owned by such entity or individual, provided that the property is located in an eligible trade area

902.2 A retransfer of credit ownership is not effectuated until the Zoning Administrator issues a Certificate of Credit Retransfer and that certificate is recorded in the land records of the District of Columbia pursuant to the procedures set forth in this section.

902.3 A request for a Certificate of Credit Retransfer shall be made by the owner of the credits and the entity or individual to whom the credits are to be retransferred hereinafter collectively referred to as "the applicant", and shall include:

(a) The Certificate of Credit Transfer issued pursuant to Subtitle I § 901 from which the credits are to be transferred;

(b) Any prior Certificates of Credit Retransfer from that certificate;

(c) A statement by the owner of the credits that there have been no prior retransfers of credit ownership made from the Certificate of Credit Transfer or, if there have been prior retransfers, the number of credits retransferred and the number of credits that remain to be retransferred; and

(d) A draft Certificate of Credit Retransfer that contains:

(1) The name and contact information for the entity or individual owning the credits to be retransferred;

(2) The name and contact information for the entity or individual to whom the credits are to be retransferred;

(3) A description of the Certificate of Credit Transfer from which ownership of the credits is being transferred including:

(A) The date upon which it was recorded in the land records; and

(B) The number of credits transferred from the Credit Covenant;

(4) If the generation of the credits was acknowledged by a Credit Covenant, the action that generated the credits;

(5) The trade area(s) and purposes for which the credits may be used;

(6) Whether any credits have previously been retransferred from the Certificate of Credit Transfer, and if so, the number of credits that remain to be retransferred;

(7) The number of the credits proposed for retransfer;

(8) The number of credits that would remain in possession of the transferring party after the proposed credit retransfer;

(9) The legal description of that property to which the credits are to be used and the trade area in which it is located; and

(10) The purpose for which the credits are to be used.

902.4 The Zoning Administrator, in his or her discretion, may request their General Counsel or the Office of the Attorney General to undertake a legal sufficiency review of the draft Certificate of Credit Retransfer.

902.5 If approved, the Certificate of Credit Retransfer shall be signed by the Zoning Administrator.

902.6 The signature of the Mayor of the District of Columbia is not required.

902.7 The applicant, upon notification by the Zoning Administrator that the Certificate of Credit Retransfer has been signed, shall take the Certificate of Credit Retransfer to the Recorder of Deeds, who shall record the certificate with the lot that that is receiving the credits, and provide the applicant with two (2) certified copies of the certificate.

902.8 The applicant shall provide one (1) certified copy to the Zoning Administrator and one (1) to the Office of Planning.

902.9 The retransfer shall be effective as of the recordation date of the certificate unless a later time is requested by the applicant.

902.10 If more than one (1) retransfer of credits is made from an Acknowledgment of Credit Transfer, the second Certificate of Credit Retransfer and all subsequent Acknowledgments of Credit Retransfers shall be numbered "two" (2) and sequentially, and each shall include the names of the transferors and transferees involved in all previous retransfers, including the amount of credits retransferred and the effective dates of each retransfer.

902.11 Credits used to achieve non-residential density shall not be retransferred unless the building that utilized the additional density is destroyed or demolished; provided that any such retransfer shall divest the property of the additional density allowed by the credits.

902.12 Credits not used may be retransferred and used elsewhere according to the provisions of this section.

TITLE 11 – ZONING

SUBTITLE J PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES

TITLE 11 – ZONING J-1

SUBTITLE J PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES J-1

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CHAPTER 1 INTRODUCTION TO PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES

100 GENERAL PROVISIONS

100.1 The Production, Distribution, and Repair (PDR) zones provide for the following:

(a) Heavy commercial and light manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that minimize any adverse effect on other nearby, more restrictive zones; and

(b) Areas suitable for development as heavy industrial sites, but at the same time protect those industrial developments from the intrusion of non-industrial uses that impede the full utilization of properly located industrial sites.

100.2 The provisions of the PDR zones are intended to:

(a) Regulate the use of land and structures and the erection and modification of structures in areas characterized by PDR uses, typically with heavy truck traffic and loading and unloading operations;

(b) Encourage the retention of viable land to accommodate production, warehousing, distribution, light and heavy industrial, and research and development activities;

(c) Allow compatible office and retail uses and development;

(d) Minimize encroachment by uses that are incompatible with PDR uses, including residential uses, which could impair existing PDR activities;

(e) Manage transitions between PDR-zoned areas and surrounding neighborhoods; and

(f) Ensure the environmental performance of development.

101 DEVELOPMENT STANDARDS

101.1 The bulk of structures in the PDR zones shall be controlled through the combined zone-specific development standards of this subtitle and the requirements and standards of Subtitle C.

101.2 The development standards are intended to:

(a) Control the bulk or volume of structures, including height, floor area ratio (FAR), and lot occupancy;

(b) Control the location of building bulk in relation to adjacent lots and streets by regulating rear yards, side yards, and the relationship of buildings to street lot lines;

(c) Regulate the mix of uses;

(d) Manage transitions between PDR-zoned areas and surrounding neighborhoods; and

(e) Ensure the environmental performance of development.

101.3 Development standards may be varied or waived by the Board of Zoning Adjustment as a variance or, when permitted in this title, as a special exception. Additional zone-specific special exception criteria, if applicable, shall be considered and are found at Subtitle J, Chapter 4.

101.4 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

102 USE PERMISSIONS

102.1 Use permissions for the PDR zones are as specified in Subtitle U, Chapter 8.

102.2 Uses in the PDR zones are subject to the standards of external effects as specified in Subtitle U, Chapter 8.

103 PARKING

103.1 Parking and bicycle parking requirements for the PDR zones are as specified in Subtitle C, Chapters 7 and 8.

104 LOADING

104.1 Loading requirements for the PDR zones are as specified in Subtitle C, Chapter 9.

105 PUBLIC EDUCATION BUILDINGS AND STRUCTURES, PUBLIC RECREATION AND COMMUNITY CENTERS, OR PUBLIC LIBRARIES

105.1 Public education buildings and structures, public recreation and community centers, or public libraries in the PDR zones shall be permitted subject to the conditions of Subtitle C, Chapter 16.

105.2 Development standards not otherwise addressed by Subtitle C, Chapter 16 shall be those development standards for the zone in which the building or structure is proposed.

106 PENTHOUSES

106.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

CHAPTER 2 DEVELOPMENT STANDARDS

200 PURPOSE AND INTENT

200.1 The PDR-1 zone is intended to permit moderate-density commercial and PDR activities employing a large workforce and requiring some heavy machinery under controls that minimize any adverse impacts on adjacent, more restrictive zones.

200.2 The PDR-2 zone is intended to permit medium-density commercial and PDR activities employing a large workforce and requiring some heavy machinery under controls that minimize any adverse impacts on adjacent, more restrictive zones.

200.3 The PDR-3 zone is intended to permit high-density commercial and PDR activities employing a large workforce and requiring some heavy machinery under controls that minimize any adverse impacts on adjacent, more restrictive zones.

200.4 The PDR-4 zone is intended to permit high-density commercial and PDR activities employing a large workforce and requiring some heavy machinery under controls that minimize any adverse impacts on adjacent, more restrictive zones and minimize non-industrial uses.

200.5 The PDR-5 zone is intended to:

(a) Permit moderate-density commercial and PDR activities employing a large workforce and requiring some heavy machinery under controls that minimize any adverse impacts on adjacent, more restrictive zones;

(b) Promote and protect the public health, safety, and general welfare of the U.S. Capitol precinct and the area adjacent to this jurisdiction, in a manner consistent with the goals and mandates of the United States Congress in Title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288), and in accordance with the plan submitted to the Congress pursuant to the Act;

(c) Reflect the importance of and provide sufficient controls for the area adjacent to the U.S. Capitol;

(d) Provide particular controls adjacent to properties having a well-recognized general public interest; and

(e) Restrict some of the permitted uses to reduce the possibility of harming the site, building, or zone to be protected.

200.6 The PDR-6 and PDR-7 zones apply to the area that is immediately north and south of Fort Circle Park, also known as Fort Drive Park.

200.7 The PDR-6 and PDR-7 zones are intended to:

(a) Encourage a scale of development and a mixture of building and land uses consistent with the Comprehensive Plan that enables existing industries that provide jobs, tax revenues, and critical support functions for development of the District of Columbia to remain in the District; and

(b) Protect surrounding residential areas from the adverse impacts of existing industrial support uses by means of the buffering standards provided in these zones.

200.8 The PDR-6 zone is intended to permit moderate-density commercial and PDR activities employing a large workforce and requiring some heavy machinery, under controls that minimize any adverse impacts on adjacent, more restrictive zones.

200.9 The PDR-7 zone is intended to:

(a) Permit high-density commercial and PDR activities employing a large workforce and requiring some heavy machinery, under controls that minimize any adverse impacts on adjacent, more restrictive zones and minimize non-industrial uses; and

(b) Ensure that the views and vistas from the historic fortification of Fort Totten are not degraded or obstructed.

201 DEVELOPMENT STANDARDS

201.1 The development standards in Subtitle J §§ 202 through 210 shall control the height and bulk of structures in the PDR zones.

202 DENSITY – FLOOR AREA RATIO (FAR)

202.1 The maximum permitted FAR in the PDR zones shall be as set forth in the following table:

TABLE J § 202.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Zone	Maximum FAR Restricted Uses	Maximum FAR Permitted
PDR-1	2.0	3.5
PDR-2	3.0	4.5
PDR-3	4.0	6.0
PDR-4	1.0	6.0
PDR-5	2.0	3.5

Zone	Maximum FAR Restricted Uses	Maximum FAR Permitted
PDR-6	2.0	3.5
PDR-7	1.0	6.0

202.2 The following use categories may achieve the maximum FAR as indicated in Table J § 202.1:

(a) Agriculture, large

(b) Animal care and boarding and animal shelter

(c) Arts, design, and creation

(d) Basic utilities;

(e) Large-scale government;

(f) Production, distribution, and repair; and

(g) Waste-related services.

202.3 All other permitted, conditional, or special exception use categories are subject to the maximum FAR indicated in the restricted uses row in the development standards table.

203 HEIGHT

203.1 The maximum permitted building height, not including the penthouse, in the PDR zones shall be as set forth in the following table:

TABLE J § 203.1: MAXIMUM PERMITTED BUILDING HEIGHT

Zone	Maximum Height (Feet)
PDR-1	50
PDR-2	60
PDR-3	90
PDR-4	90
PDR-5	40
PDR-6	40
PDR-7	65

203.2 In the PDR-5 zone, the maximum permitted number of stories within the building shall be three (3).

203.3 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.) not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the natural grade.

203.4 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.

203.5 In the PDR-6 or PDR-7 zone, any building proposed to exceed sixty-five feet (65 ft.) in height, not including the penthouse, shall be approved by the Board of Zoning Adjustment pursuant to the special exception criteria of Subtitle X, Chapter 9. The applicant for a special exception under this subsection shall demonstrate that the building will not degrade or obstruct views and vistas from the historic fortification of Fort Totten.

203.6 The maximum permitted height of a penthouse shall be as set forth in the following table:

TABLE J § 203.6: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

ZONE	Maximum Penthouse Height	Maximum Penthouse Stories
PDR-5	10 ft.	1
PDR-1 PDR-6	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
PDR-2	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
PDR-3 PDR-4 PDR-7	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space

204 TRANSITION HEIGHT REQUIREMENTS

204.1 Development on a lot that directly abuts a residentially-zoned property with a lower height limit, shall not project above a plane drawn at a one-to-one (1:1) angle subject to the following:

(a) The plane shall be measured ten feet (10 ft.) above the matter-of-right height of the abutting residential property line; and

(b) The measuring point shall be established at the middle of the abutting residential property line.

205 REAR YARD

205.1 A rear yard shall be provided for each structure located in a PDR zone.

205.2 The minimum depth of the rear yard shall be two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of

the rear of the structure to the highest point of the main roof or parapet wall, but not less than twelve feet (12 ft.).

205.3 Where the rear lot line of a lot abuts or is separated only by an alley from a residential zone or residential use of a property, a rear yard shall be provided from the ground up, subject to the transitional setback requirements of Subtitle J § 207.

205.4 Except as required in Subtitle J § 205.3, the rear yard need not be provided below a horizontal plane twenty feet (20 ft.) above the mean finished grade at the middle of the rear of the structure.

205.5 For that portion of the structure above the horizontal plane, the depth of rear yard may be measured as follows:

(a) When the lot abuts an alley, from the center line of the alley to the rear wall of the portion immediately above the plane; or

(b) When the lot does not abut an alley, from the rear lot line to the rear wall of the portion immediately above the plane.

205.6 In the case of a through lot or a corner lot abutting three (3) or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

205.7 A required rear yard may be within a required transitional setback provided all transitional setback conditions are met.

206 SIDE YARD

206.1 No side yard shall be required on a lot in a PDR zone, except where a side lot line of the lot abuts a residential zone or lot developed with a residential use. Where a side lot line abuts a residential zone, the transitional setback requirements shall be provided pursuant to Subtitle J § 207.

206.2 A required side yard may be within a required transitional setback provided all transitional setback conditions are met.

207 TRANSITION SETBACK REGULATIONS

207.1 Transition setback regulations apply along any and all lot lines of a lot in a PDR zone when the lot or portion of the lot directly abuts a residential zone, a lot developed with a residential use, or an alley that abuts a residential zone, unless the PDR-zoned lot is only used for residential purposes.

207.2 The following required setbacks shall be provided on a lot in a PDR zone subject to the following conditions:

(a) A twenty-five foot (25 ft.) setback shall be provided from each lot line that is directly abutting a lot in a residential zone or developed with a residential use;

(b) A twenty-five foot (25 ft.) setback shall be provided from each lot line that is abutting an alley that serves as the zone boundary line between a PDR zone and a residential zone. The depth of setback shall be measured from property line of the PDR-zoned lot; and

(c) A fifteen foot (15 ft.) setback shall be provided from each lot line, except a front lot line, that is abutting a street less than seventy feet (70 ft.) in right-of-way width that serves as the zone boundary line between a PDR zone and a residential zone.

207.3 Any setback required by this section shall be located on the PDR-zoned lot and shall be extend as a vertical plane, parallel to the PDR-zoned lot line.

207.4 Any setback area required by this section shall not be used for storage, parking, loading, or accessory uses.

207.5 Any setback area required by this section shall be landscaped with evergreen trees, subject to the following conditions:

(a) The trees shall be maintained in a healthy growing condition;

(b) The trees shall be a minimum of eight feet (8 ft.) high when planted; and

(c) Planting locations and soil preparation techniques shall be shown on a landscape plan submitted with the building permit application to the Department of Consumer and Regulatory Affairs for review and approval according to standards maintained by the Department's Soil Erosion and Storm Management Branch, which may require replacement of heavy or compacted soils with top and drainage mechanisms as necessary.

207.6 A form of screening shall be erected between the residential and PDR lots, and shall be located along the required setback identified in Subtitle J § 207.2(a). The screening shall be either:

(a) A solid wood or board-on-board fence, no less than eight feet (8 ft.) and no more than ten feet (10 ft.) in height; or

(b) A brick or stone wall, no less than eight feet (8 ft.) and no more than ten feet (10 ft.) in height.

207.7 A transitional setback may be inclusive of a required side or rear yard provided all conditions of each section are met.

208 GREEN AREA RATIO (GAR)

208.1 A lot in any PDR zone shall have a Green Area Ratio (GAR) of at least 0.3, except that:

(a) A lot with a principal building that is one (1) story in height shall have a GAR of at least 0.1; and

(b) A lot with a principal building that is two (2) stories in height shall have a GAR of at least 0.2.

208.2 For lots that have more than one (1) building, the GAR requirement shall be that applicable to the tallest building; unless the tallest building has a footprint less than four hundred and fifty square feet (450 sq. ft.). In such case the building with the largest footprint shall constitute the principal building for the purposes of determining the GAR requirement.

209 COURT

209.1 A court is not required, but if provided, it shall have the following minimum dimensions:

TABLE J § 209.1: MINIMUM COURT DIMENSIONS

Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
2.5 in./ft. of height of court; 6 ft. minimum	2.5 in./ft. of height of court; 12 ft. minimum	Twice the square of the required width of court dimension; 250 sq. ft. minimum.

210 SPECIAL EXCEPTION

210.1 Except for the PDR-5 zone, exceptions to the development standards of this chapter, except for GAR, shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.

210.2 For property in the PDR-5 zone, exceptions to the development standards of this chapter, except for GAR, shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 and the provisions of Subtitle J, Chapter 4.

CHAPTER 3 ALLEY LOT REGULATIONS

300 GENERAL PROVISIONS

300.1 All alley lots must be recorded in the records of the Office of the Surveyor, District of Columbia, as a record lot.

300.2 New alley lots may be created as provided in Subtitle C, Chapter 3.

301 DEVELOPMENT REGULATIONS FOR BUILDINGS ON ALLEY LOTS

301.1 The bulk of buildings on alley lots in a PDR zone shall be controlled through the specified development standards of this chapter.

301.2 The following development standards shall apply to buildings on alley lots in PDR zones:

TABLE J § 301.2: ALLEY LOT DEVELOPMEN STANDARDS

Maximum Lot Occupancy	GAR	Rear Yard Min.	Side Yard Min.	Alley Centerline Yard Min.
N/A	As required by applicable zone	5 ft. from any lot line of all abutting non-alley lots		12 ft. from the centerline of all alleys to which the alley lot abuts

301.3 The maximum height of a building on an alley lot shall be determined as follows:

(a) If the alley lot is located in a square that contains R or RF zoned properties, the height shall be limited to twenty feet (20 ft.), including the penthouse; or

(b) If the alley lot is located in a square that does not contain R or RF zoned properties, the height shall be limited to thirty feet (30 ft.), including the penthouse.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

CHAPTER 4 SPECIAL EXCEPTION

400 GENERAL PROVISIOINS

400.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.

400.2 Requested relief that does not comply with specific conditions or limitations of a special exception shall be processed as a variance.

401 SPECIAL EXCEPTION CRITERIA FOR PDR-5 ZONE

401.1 In the PDR-5 zone, any special exception application shall be subject to the following additional conditions in addition to any conditions relative to the specific special exception:

(a) Compatible with the present and proposed development of the neighborhood;

(b) Consistent with the goals and mandates of the United States Congress in Title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288); and

(c) In accordance with the plan promulgated under the Act.

401.2 Upon receipt of the application, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment along with reviews in writing of all relevant District departments and agencies including the Departments of Transportation, Housing and Community Development, and, if a historic district or historic landmark is involved, the Historic Preservation Office.

401.3 Upon receipt of the application, the Board of Zoning Adjustment shall submit the application to the Architect of the Capitol for review and report.

401.4 The Board of Zoning Adjustment may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impacts identified in the consideration of the application.

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SUBTITLE K SPECIAL PURPOSE ZONES

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CHAPTER 1 INTRODUCTION TO SPECIAL PURPOSE ZONES

100 GENERAL PROVISIONS

100.1 The purpose of the special purpose zones is to provide for single large sites that require a cohesive, self-contained set of regulations to guide site design, building height and bulk, land uses, or other aspects of development.

CHAPTER 2 SOUTHEAST FEDERAL CENTER ZONES – SEFC-1 THROUGH SEFC-4

200 GENERAL PROVISIONS (SEFC)

200.1 The Southeast Federal Center (SEFC) zones (SEFC-1 through SEFC-4) provide for the development of a vibrant, urban, mixed-use, waterfront neighborhood, offering a combination of uses that will attract residents, office workers, and visitors from across the District of Columbia and beyond.

200.2 The purposes of the SEFC zones are to:

(a) Assure development of the area with a mixture of residential and commercial uses and a suitable height, bulk, and design of buildings, as generally identified in the Comprehensive Plan, and in recognition of the objectives of the Anacostia Waterfront Initiative and the Near Southeast Urban Design Framework Plan;

(b) Encourage high-density residential development with a pedestrian-oriented streetscape through flexible zoning parameters;

(c) Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural, and hotel or inn uses;

(d) Provide for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous publicly-accessible open space along the waterfront;

(e) Require suitable ground-floor level retail and service uses near the Navy Yard Metrorail station, along M Street, S.E., near the SEFC-4 zone, and at other key pedestrian locations;

(f) Encourage the design and development of properties in a manner that is sensitive to the adjacent Navy Yard and the historically significant buildings within the SEFC zones; and

(g) Establish zoning incentives and restrictions to provide for the development of a publicly-accessible park along the Anacostia River and encourage uses in that park as permitted in the SEFC-4 zone.

200.3 The SEFC-1 zone provides for high-density mixed-use development with ground floor retail, and review of the relationship of new buildings to the M Street, S.E. corridor and the adjacent Washington Navy Yard.

200.4 The SEFC-2 zone provides for high-density residential development with limited ground floor retail, and the review of the relationship of new buildings to the SEFC waterfront park open space area.

200.5 The SEFC-3 zone provides for medium-density residential development with limited ground floor retail, and the review of the relationship of new buildings to the SEFC waterfront park open space area.

200.6 The SEFC-4 zone provides for a five (5) acre minimum public park along the Anacostia River, with a defined retail area to serve residents of the neighborhood and the District of Columbia.

200.7 Additional objectives for the SEFC-4 zones are to:

(a) Encourage open space;

(b) Promote a lively, interactive waterfront environment;

(c) Discourage parking;

(d) Provide a development area for retail and cultural uses;

(e) Provide an open space area, intended to be the site of open space recreation use as well as limited uses that are directly waterfront dependent; and

(f) Allow for a continuous publicly-accessible pedestrian and bicycle trail along and adjacent to the waterfront as part of the Anacostia Waterfront Trail system.

200.8 The SEFC-4 zone is divided into two geographic areas:

(a) SEFC-4 development area, consisting of the northeastern portion of the SEFC-4zone, specifically the existing Building 173 and that portion of the SEFC-4 zone located directly to the east of Building 173, north of a line extending east from the south elevation of Building 173; and

(b) SEFC-4 open space area, consisting of all property within the SEFC-4 zone that is located outside of the development area.

200.9 Notwithstanding the subdivision requirements of Subtitle C § 302, two (2) or more principal buildings or structures may be erected as a matter-of-right on a single subdivided lot within the SEFC-4 zone provided that such principal buildings or structures comply with all other theoretical lot subdivision requirements of Subtitle C § 305.

200.10 The parking requirements are as follows:

(a) The provision of vehicular parking spaces shall not be required. Any parking spaces and access provided shall conform to the requirements of Subtitle C, Chapter 7;

(b) Bicycle parking spaces shall be required, in accordance with the standards of Subtitle C, Chapter 8; and

(c) Parking for marine and parks and recreation uses, including any accessory uses, shall be located in accordance with the provisions of Subtitle C §1102.

200.11 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this chapter.

200.12 The provisions of Subtitle C § 1500.11 governing the application of Subtitle C, Chapter 10 shall apply to penthouses in the SEFC zones, except that this provision shall not apply to residential rental buildings.

200.13 The matter-of-right height, penthouse height, and floor area ratio limits shall serve as the maximums permitted building height, penthouse height, and floor area ratio for a planned unit development (PUD) for each SEFC zone.

201 DEVELOPMENT STANDARDS (SEFC-1)

201.1 The development standards in Subtitle K §§ 202 through 210 control the bulk of structures in the SEFC-1 zone.

201.2 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

202 DENSITY – FLOOR AREA RATIO (FAR) (SEFC-1)

202.1 The maximum permitted floor area ratio (FAR) for building in the SEFC-1 zone shall be 6.0 with a maximum of 3.0 FAR for non-residential uses; except that a building within Parcels A, F, G, H, and I shall be permitted a maximum density of 7.0 FAR, provided that:

(a) The additional 1.0 FAR is devoted solely to residential uses, which for the purposes of this subsection does not include a hotel; and

(b) A minimum of ten percent (10%) of the additional density gained pursuant to this section shall be devoted to three (3) bedroom units, provided that such units may be located anywhere within the residential building. The reduction or elimination of this requirement may be permitted by the Commission upon a showing by the applicant that exceptional

circumstances affecting the property make compliance with this requirement difficult or impossible.

202.2 Combined lot development of two (2) or more lots within the SEFC-1 zone, whether contiguous or non-contiguous, is permitted for the purpose of allocating density for residential and non-residential uses, regardless of any other limitation on floor area by uses as established in this chapter, in accordance with Subtitle K § 240, provided that:

(a) The aggregate residential and non-residential floor area shall not exceed the matter-of-right maximum height or density of the SEFC-1 zone;

(b) A site that is permitted a height of one hundred thirty feet (130 ft.) is permitted a maximum non-residential density of 6.5 FAR through combined lot development; and

(c) Ground floor area required for ground-floor street-oriented preferred uses required in accordance with Subtitle K § 237.5 may not be transferred to any other lot through combined lot development.

202.3 A record lot may be created with respect to the parcel on which Building 167 is located, notwithstanding other requirements of Subtitle C, Chapter 3. Any enlargements or additions to Building 167 shall comply with all requirements of this title.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

203 HEIGHT (SEFC-1)

203.1 The maximum permitted building height, not including the penthouse, in the SEFC-1 zone shall be one hundred and ten feet (110 ft.), except as set forth below:

(a) A site that has frontage on any portion of New Jersey Avenue, S.E., that is south of and within three hundred twenty-two feet (322 ft.) of M Street, S.E., is permitted a maximum height of one hundred thirty feet (130 ft.); and

(b) For a site within Parcels A, F, G, or H utilizing the bonus density permitted pursuant to §1803.7 (b), the maximum permitted building height shall be that permitted by the Act to Regulate the Height Act.

203.2 Sites fronting on M Street, S.E., east of 4th Street, S.E., are restricted to a height of ninety feet (90 ft.). A building height of one hundred ten feet (110 ft.) maximum is permitted if reviewed and approved by the Zoning Commission pursuant to the procedures of Subtitle K § 211. For the purposes of this review, the Zoning Commission shall consider the relationship of the new building to the

Navy Yard to the east and may require graduated height and/or design features because of the building's proximity to the Navy Yard.

203.3 The maximum permitted height of a penthouse shall be twenty feet (20 ft.), and the maximum number of stories within the penthouse shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

204 LOT OCCUPANCY (SEFC-1)

204.1 The maximum permitted lot occupancy in the SEFC-1 zone shall be one hundred percent (100%) for non-residential uses and seventy-five percent (75%) for residential uses.

204.2 A building occupied by both residential and non-residential preferred uses provided in accordance with Subtitle K § 206.3 shall be permitted one hundred percent (100%) lot occupancy for the ground and second stories.

204.3 No public recreation and community center shall occupy more than twenty percent (20%) of the lot upon which it is located; except that it may occupy up to forty percent (40%) if approved by the Zoning Commission, provided that the agency shows that the increase is consistent with the preservation of open space.

205 FRONT SETBACK (SEFC-1)

205.1 A front setback of fifteen feet (15 ft.) minimum for the entire height and frontage of each new building along M Street, S.E., measured from the face of the adjacent curb along M Street, S.E., shall be required in the SEFC-1 zone.

205.2 A front setback of twenty feet (20 ft.) minimum for the entire height and frontage of each new building along the east side of 4th Street, S.E., measured from the face of the adjacent curb along 4th Street, S.E., shall be required in the SEFC-1 zone.

206 REAR YARD (SEFC-1)

206.1 A rear yard of two and one-half inches (2.5 in.) per one foot (1 ft.) of height or a minimum of twelve feet (12 ft.) shall be provided for each structure located in the SEFC-1 zone.

207 SIDE YARD (SEFC-1)

207.1 No side yard is required; however, any side yard provided shall be five feet (5 ft.) minimum.

208 COURT (SEFC-1)

208.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE K § 208.1: MINIMUM COUTYARD DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential (except hotel):	4 in./ft. of height of court; 10 ft. minimum.	4 in./ft. of height of court; 15 ft. minimum.	Twice the square of the required width of court dimension; 350 sq. ft. minimum.
Non-Residential and Lodging:	2.5 in./ft.) of height of court; 6 ft. minimum.	2.5 in./ft. of height of court; 12 ft. min.	Twice the square of the required width of court dimension; 250 sq. ft. minimum.

209 GREEN AREA RATIO (SEFC-1)

209.1 A minimum green area ratio (GAR) of 0.20 shall be required in the SEFC-1 zone.

210 GROSS FLOOR AREA (SEFC-1)

210.1 Non-residential floor area shall be the total gross floor area of the building not dedicated to uses in one (1) of the following use categories:

(a) Residential;

(b) Emergency shelter; or

(c) Lodging.

211 DRIVEWAYS AND PARKING (SEFC-1)

211.1 No driveway may be constructed or used from M Street, S.E. to vehicular parking spaces in or adjacent to a new building.

212 LOADING (SEFC-1)

212.1 No driveway may be constructed or used from M Street, S.E. to access loading spaces in or adjacent to a new building.

213 DEVELOPMENT STANDARDS (SEFC-2)

213.1 The development standards in Subtitle K §§ 214 through 220 control the bulk of structures in the SEFC-2 zone.

214 DENSITY – FLOOR AREA RATIO (FAR) (SEFC-2)

214.1 The maximum permitted FAR for a building in the SEFC-2 zone shall be 6.0 with a maximum of 0.5 FAR for non-residential uses.

214.2 The density associated with preferred uses shall be in addition to otherwise permitted density, and shall not exceed 0.5 FAR.

215 HEIGHT (SEFC-2)

215.1 The maximum permitted building height, not including the penthouse, in the SEFC-2 zone shall be one-hundred and ten feet (110 ft.).

215.2 For the purposes of determining maximum height permitted under the Height Act of 1910, and for achieving the height permitted in Subtitle K § 215.1, the SEFC-2 zone is considered a "mixed-use" zone.

215.3 Maximum height shall be that equal to the width of the adjacent right-of-right, increased by twenty feet (20 ft.), but not to exceed one hundred and thirty feet (130 ft.), or less if otherwise restricted by the Height Act.

215.4 The maximum permitted height of a penthouse shall be twenty feet (20 ft.), and the maximum number of stories within the penthouse shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

216 LOT OCCUPANCY (SEFC-2)

216.1 The maximum permitted lot occupancy in the SEFC-2 zone shall be seventy-five percent (75%).

216.2 A building occupied by both residential and non-residential preferred uses provided in accordance with Subtitle K § 207.3 shall be permitted one hundred percent (100%) lot occupancy for the ground and second stories.

216.3 No public recreation and community center shall occupy more than twenty percent (20%) of the lot upon which it is located; except that it may occupy up to forty percent (40%) if approved by the Zoning Commission, provided that the agency shows that the increase is consistent with the preservation of open space.

217 REAR YARD (SEFC-2)

217.1 A rear yard of two and one-half inches (2.5 in.) per one foot (1 ft.) of height or a minimum of twelve feet (12 ft.) shall be provided for each structure located in the SEFC-2 zone.

218 SIDE YARD (SEFC-2)

218.1 No side yard is required; however, any side yard provided shall be five feet (5 ft.) minimum.

219 COURT (SEFC-2)

219.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE K § 219.1: MINIMUM COUTYARD DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential (except hotel):	4 in./ft. of height of court; 10 ft. minimum.	4 in./ft. of height of court; 15 ft. minimum.	Twice the square of the required width of court dimension; 350 sq. ft. minimum.
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum.	2.5 in./ft. of height of court; 12 ft. min.	Twice the square of the required width of court dimension; 250 sq. ft. minimum.

220 GREEN AREA RATIO (SEFC-2)

220.1 A minimum GAR of 0.3 shall be required in the SEFC-2 zone.

221 DEVELOPMENT STANDARDS (SEFC-3)

221.1 The development standards in Subtitle K §§ 222 through 228 control the bulk of structures in the SEFC-3 zone.

222 DENSITY – FLOOR AREA RATIO (FAR) (SEFC-3)

222.1 The maximum permitted FAR for building in the SEFC-3 zone shall be 3.5 with a maximum of 0.5 FAR for non-residential uses.

222.2 The density associated with preferred uses shall be in addition to otherwise permitted density, and shall not exceed 0.5 FAR.

223 HEIGHT (SEFC-3)

223.1 The maximum permitted building height, not including the penthouse, in the SEFC-3 zone shall be ninety feet (90 ft.).

223.2 For the purposes of determining maximum height permitted under the Height Act, and for achieving the height permitted in Subtitle K § 203.1, the SEFC-3 zone is considered a "mixed-use" zone.

223.3 Maximum height shall be that equal to the width of the adjacent right-of-right, increased by twenty feet (20 ft.), but not to exceed one hundred and thirty feet (130 ft.), or less if otherwise restricted by the Height Act.

223.4 The maximum permitted height of a penthouse shall be twenty feet (20 ft.), and the maximum number of stories within the penthouse shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

224 LOT OCCUPANCY (SEFC-3)

224.1 The maximum permitted lot occupancy in the SEFC-3 zone shall be seventy-five percent (75%).

224.2 A building occupied by both residential and non-residential preferred uses provided in accordance with Subtitle K § 207.3 shall be permitted one hundred percent (100%) lot occupancy for the ground and second stories.

224.3 No public recreation and community center shall occupy more than twenty percent (20%) of the lot upon which it is located; except that it may occupy up to forty percent (40%) if approved by the Zoning Commission, provided that the agency shows that the increase is consistent with the preservation of open space.

225 REAR YARD (SEFC-3)

225.1 A rear yard of two and one-half inches (2.5 in.) per one foot (1 ft.) of height or a minimum of twelve feet (12 ft.) shall be provided for each structure located in the SEFC-3 zone.

226 SIDE YARD (SEFC-3)

226.1 No side yard is required; however, any side yard provided shall be four feet (4 ft.) minimum.

227 COURT (SEFC-3)

227.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE K § 227.1: MINIMUM COUTYARD DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential (except hotel):	4 in./ft. of height of court; 10 ft. minimum.	4 in./ft. of height of court; 15 ft. minimum.	Twice the square of the required width of court dimension; 350 sq. ft. minimum.
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum.	2.5 in./ft. of height of court; 12 ft. min.	Twice the square of the required width of court dimension; 250 sq. ft. minimum.

228 GREEN AREA RATIO (SEFC-3)

228.1 A minimum GAR of 0.3 shall be required in the SEFC-3 zone.

229 DEVELOPMENT STANDARDS (SEFC-4)

229.1 The development standards in Subtitle K §§ 230 through 235 control the bulk of structures in the SEFC-4 zone.

230 DENSITY – FLOOR AREA RATIO (FAR) (SEFC-4)

230.1 The maximum permitted FAR in the SEFC-4 zone shall be 0.5.

230.2 FAR shall be the gross floor area of all buildings and structures located on land and any associated permanent structure located on, in, or over water, other than a floating home, divided by the total area of the lot.

230.3 The FAR on a lot used exclusively for recreational use, marina, yacht club, or boathouse buildings and structures shall not exceed 0.75.

230.4 The gross floor area of existing Building 173 shall not count toward any FAR computation. The second story of Building 173 may be used for general office purposes on an interim basis of not more than twenty (20) years from the date of the initial certificate of occupancy for this use; provided that any such office space is suitably designed for future occupancy by retail uses and to not adversely impact ground floor retail uses.

230.5 Two (2) or more lots, whether contiguous or non-contiguous, within the SEFC-4 zone may be combined for the purposes of allocating density as provided for and limited by Subtitle K § 230.7, in accordance with the procedures outlined in Subtitle K § 240.

230.6 A lot or lots in the SEFC-4 development area may receive and use density allocated from a lot or lots in the SEFC-4 open space area, subject to all other applicable area restrictions. If a single lot is included within both geographic areas, the portion of the lot in the SEFC-4 development area may use the unused density from the portion of the lot in the SEFC-4 open space area.

231 HEIGHT (SEFC-4)

231.1 The maximum permitted building height, not including the penthouse, in the SEFC-4 zone shall be forty feet (40 ft.).

231.2 A building or structure located on, in or over the water; or a watercraft, including a floating home shall have a height of twenty-five feet (25 ft.) maximum. For the purposes of this subsection, the maximum height shall be measured from the mean high water level along the shore directly in front of the building, structure or

watercraft to the highest point of the building or structure, not including sailboat masts.

231.3 The maximum permitted height of a penthouse shall be twelve feet (12 ft.) except that a height of fifteen feet (15 ft.) for penthouse mechanical space; and the maximum number of stories within the penthouse shall be one (1), except that a second story for penthouse mechanical space shall be permitted.

232 LOT OCCUPANCY (SEFC-4)

232.1 The maximum permitted lot occupancy in the SEFC-4 zone shall be twenty-five percent (25%), except as provided in Subtitle K § 232.3.

232.2 Lot occupancy shall be the total area occupied by all buildings and structures located on land and by any associated permanent structure located on, in, or over water, other than a floating home, divided by the total area of the lot.

232.3 The lot occupancy on a lot used exclusively for a recreational use, marina, yacht club, or boathouse buildings and structures shall not exceed fifty percent (50%).

233 SIDE YARD (SEFC-4)

233.1 A minimum required side yard of twelve feet (12 ft.) shall be provided in the SEFC-4 zone.

233.2 No side yard is required for any building or structure located entirely on, over, or in the water. If a side yard is provided, its minimum width shall be at least five feet (5 ft.).

233.3 Any building or structure located in whole or in part on land shall provide a side yard on each side of twelve feet (12 ft.) minimum.

234 COURT (SEFC-4)

234.1 Where a court is provided, it shall have the following minimum dimensions:

TABLE K § 234.1: MINIMUM COUTYARD DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential (except hotel):	4 in./ft. of height of court; 10 ft. minimum.	4 in./ft. of height of court; 15 ft. minimum.	Twice the square of the required width of court dimension; 350 sq. ft. minimum.
Non-Residential and Lodging:	2.5 in./ft. of height of court;	2.5 in./ft. of height of court;	Twice the square of the required width of court dimension;

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
	6 ft. minimum.	12 ft. minimum.	250 sq. ft. minimum.

235 WATERFRONT SETBACK (SEFC-4)

235.1 A waterfront setback shall be provided in accordance with the provisions of Subtitle C, Chapter 11.

235.2 The waterfront setback shall have a depth of one hundred feet (100 ft.) minimum.

236 PREFERRED USE PROVISIONS (SEFC-4)

236.1 The following uses groups shall be considered preferred uses within the SEFC zones:

(a) Animal care, sales, and boarding provided there is no overnight boarding of dogs except for convalescence at a veterinary hospital;

(b) Arts, design, and creation;

(c) Eating and drinking establishments;

(d) Medical Care;

(e) Retail;

(f) Financial service provided a bank or financial institution shall not be located at the intersection of two streets; and

(g) General service.

236.2 Preferred uses shall be located on the ground-floor and street-oriented.

237 USE PERMISSIONS (SEFC-1)

237.1 Except as prescribed below, use permissions, including uses permitted as a matter of right, as a special exception, and as an accessory use, and uses not permitted shall be in accordance with the MU-Use Group G of Subtitle U, Chapter 5.

237.2 Notwithstanding Subtitle K § 237.1, the following additional use restrictions and permissions of this section shall apply in the SEFC-1 zone.

237.3 Uses subject to special exception review in the MU-Use Group G that are not listed in Subtitle K § 237.4 as being subject to Zoning Commission review and approval, are not permitted within the SEFC-1 zone.

237.4 Within the SEFC-1 zone, the following buildings, structures, and uses are permitted only if reviewed and approved by the Zoning Commission, in accordance with the standards specified in Subtitle K § 241 and procedures specified in Subtitle K § 242:

(a) All buildings and structures that have frontage along M Street, S.E.; subject also to the applicant proving that the architectural design, site plan, landscaping, and sidewalk treatment of the proposed building are of superior quality; automobile rental agency, provided the use has no exterior automobile storage area;

(1) Are of superior quality;

(2) Accommodate the design of the public entrance to the Navy Yard Metrorail Station on Parcel A. The applicant shall demonstrate proactive engagement with the Washington Metrorail Area Transit Authority (WMATA) in the planning and design of Parcel A as a part of the above design review as set for the below:

(A) If the applicant moves forward with the construction of the third entrance before the applicant is ready to develop Parcel A, the applicant shall demonstrate that it has coordinated with WMATA to integrate the entrance into the design of Parcel A; and

(B) If WMATA moves forward with the construction of the third entrance before the applicant is ready to develop Parcel A, the applicant shall demonstrate that it has coordinated with WMATA to integrate the entrance into the design of Parcel A;

(3) Ensure the provision of 1½ Street, S.E. and N Street, S.E. as open and uncovered multimodal circulation routes; and

(4) Provide three (3) bedroom dwelling units as required pursuant to Subtitle K § 202.1;

(b) Automobile rental agency, provided the use has no exterior automobile storage area;

(c) Dental lab;

(d) Department store;

(e) Hotel;

(f) International organization;

(g) Library;

(h) Institution, religious, which may include a parsonage, vicarage, rectory, or Sunday school building, as well as any related programs;

(i) Education, private and education, public, including trade school; solid, freestanding wall and/or security gate exceeding a height of four (4) feet, including structural supports;

(j) Education, college/university;

(k) Entertainment, assembly, and performing arts;

(l) Medical care;

(m) Automobile, truck, or motorcycle accessory sales, including installation;

(n) Gas station; and

(o) Temporary parking lot or garage, for a maximum approval period of five (5) years, which may be renewed by the Zoning Commission, as a principal use located at or above grade.

237.5 Preferred uses listed in Subtitle K § 236 shall be permitted in accordance with the following criteria:

(a) Any building or structure with frontage on M Street, S.E. or N Street, S.E. shall provide preferred uses comprising a minimum of seventy-five percent (75%) of the frontage on M Street, S.E. or N Street, S.E. and a minimum of seventy-five percent (75%) of that portion of the gross floor area of the ground floor within a depth of fifty feet (50 ft.) from the exterior façade of the front of building, not including parking, parking access, mechanical and fire control rooms, and other non-public spaces. This requirement shall not apply to:

(1) Buildings directly south of the historic wall along M Street, S.E., between 4th Street, S.E. and the Washington Navy Yard, for so long as the wall remains; or

(2) Any addition to a building with frontage on M Street, S.E. or N Street, S.E. if the addition to such building has no frontage on such streets but, as allowed pursuant to Subtitle K § 237.5(b), preferred uses may be provided on the ground floor level of such buildings;

(b) In addition to the preferred uses listed in Subtitle K § 236, the preferred use space requirement of Subtitle K § 237.5(a) may also be met by any use listed in Subtitle K §§ 237.4(a) through (n), if reviewed and approved by

the Zoning Commission in accordance with the standards specified in Subtitle K § 241 and procedures specified in Subtitle K § 242;

(c) In addition to the locations in which preferred uses are required pursuant to Subtitle K § 237.5(a), preferred uses may be provided on the ground floor level of buildings in other areas within the SEFC-1 zone, but are not required. If provided, such preferred use area shall not be required to conform to the requirements of Subtitle K §§ 237.5(a), (f), (g), and (h);

(d) For good cause shown, the Zoning Commission may authorize interim occupancy of the preferred use space required under Subtitle K § 237.5(a) by other uses permitted in the SEFC zones for up to a five (5) year period; provided that the ground-floor space is suitably designed for future occupancy by preferred uses;

(e) Not less than fifty percent (50%) of the surface area of the street wall, including building entrances, of those building frontages described in Subtitle K § 237.5(a) shall be devoted to doors or display windows having clear or low emissivity glass;

(f) Preferred uses shall provide direct, exterior access to the ground level;

(g) The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be fourteen feet (14 ft.); and

(h) Changes to the type, amount, and location of preferred uses required under Subtitle K § 237.5(a) shall be permitted if reviewed and approved by the Zoning Commission in accordance with the standards specified in Subtitle K § 241 and procedures specified in Subtitle K § 242.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

238 USE PERMISSIONS (SEFC-2 AND SEFC-3)

238.1 Except as prescribed below, use permissions, including uses permitted as a matter of right, as a special exception and as an accessory use, and uses not permitted shall be in accordance with the use provisions of the RA-5 zone of Subtitle U, Chapter 4.

238.2 Notwithstanding Subtitle K § 238.1, the following buildings, structures, and uses are not permitted in the SEFC-2 and SEFC-3 zones:

(a) Detached, semi-detached, or rowhouse dwelling;

(b) Parking lot or garage as a principal use located on or above grade, except as a temporary use as permitted by special exception in Subtitle K § 238.3.

(c) Sanitarium; and

(d) Uses subject to special exception review in the RA-5 zone that are not listed in Subtitle K § 238.3 as being subject to Zoning Commission review and approval are not permitted in the SEFC-3 and SEFC-2 zones, unless such uses are permitted as preferred uses pursuant to Subtitle K § 236.

238.3 Notwithstanding Subtitle K § 238.1, the following buildings, structures, and uses are permitted only if reviewed and approved by the Zoning Commission, in accordance with the standards specified in Subtitle K § 241 and procedures specified in Subtitle K § 242:

(a) All buildings and structures that abut the SEFC-4 open space area, whether or not a street intervenes but excluding buildings and structures that abut the SEFC-4 development area including existing Building 160 and any additions thereto and any building or structure to be constructed immediately to the east of Building 160 (i.e., north of Water Street, S.E., west of 4th Street, S.E., east of Third Street, S.E., and south of Tingey Street, S.E.).

(b) Uses within the arts, design, and creation; entertainment, assembly, and performing arts; and the lodging use groups, subject to an overall cap within the SEFC-3 and SEFC-2 zones of 1.0 FAR maximum;

(c) Medical care;

(d) Institutional, religious based, which may include a parsonage, vicarage, rectory, or Sunday school building, as well as any related programs.

(e) Private club, lodge, fraternity house, sorority house, or dormitory;

(f) Education, private and education, public, including trade school; except a trapeze school as provided in Subtitle K § 238.5;

(g) Temporary parking lot or garage, for a maximum approval period of five (5) years, which may be renewed by the Zoning Commission, as a principal use, located at or above grade;

(h) Solid, freestanding wall and/or security gate exceeding a height of four feet (4 ft.);

(i) Education, college/university; and

(j) Daytime care.

238.4 Within the SEFC-3 and SEFC-2 zones, "preferred uses" listed in Subtitle K § 236 shall be regulated in accordance with the following criteria:

(a) Preferred uses shall be provided in any building or structure facing:

(1) Tingey Street, S.E., west of 4th Street, S.E., and east of 4th Street, S.E., but in the latter case, only along the southern side of Tingey Street, S.E., for a length of fifty feet (50 ft.) minimum as measured from the west exterior facade of any building or structure constructed on the southeast corner of Tingey Street, S.E. and 4th Street, S.E., or

(2) The SEFC-4 Zones;

(b) Where required, preferred uses shall comprise a minimum of seventy-five percent (75%) of the frontage facing Tingey Street, S.E., or the SEFC-4 District, and a minimum of seventy-five percent (75%) of the applicable portion of the gross floor area of the ground floor with a depth of fifty feet (50 ft.) from the exterior facade of the front of the building, not including parking, parking access, mechanical and fire control rooms, and other non-public spaces;

(c) The requirement to provide preferred uses shall not apply to any addition to a building facing onto Tingey Street, S.E. or the SEFC-4 zone if the addition to the building has no frontage facing onto Tingey Street, S.E. or the SEFC-4 zone, but, as allowed pursuant to Subtitle K § 238.4(d), preferred uses may be provided on the ground floor level of such addition;

(d) For Building 160, notwithstanding the requirements noted above, the total amount of preferred use space shall be a minimum of three thousand square feet (3,000 sq. ft.) of space facing Tingey Street, S.E. and a minimum of six thousand square feet (6,000 sq. ft.) of space facing Water Street, S.E., for a total of at least nine thousand square feet (9,000 sq. ft.);

(e) In addition to the locations in which preferred uses are required pursuant to Subtitle K § 238.4(a), preferred uses may be provided on the ground floor level of buildings or structures in other areas within the SEFC-3 and SEFC-2 zones, but are not required. If provided, such preferred use area shall not be required to conform to the requirements of Subtitle K § 238.4(a), (g), (h), and (i). If the bonus density authorized pursuant to Subtitle K § 238.4(e), is used to provide non-required preferred uses, the preferred use area must be dedicated to preferred uses for the life of the building;

(f) The density associated with preferred uses shall be in addition to otherwise permitted density, and shall not exceed 0.5 FAR;

(g) For good cause shown, the Zoning Commission may authorize interim occupancy of the preferred use space required under Subtitle K § 238.4(a) by other uses permitted in the RA-5 zones for up to a five (5) year period; provided that the ground floor space is suitably designed for future occupancy by preferred uses;

(h) Not less than fifty percent (50%) of the surface area of the street wall, including building entrances, of those building frontages dedicated to preferred uses described in Subtitle K § 238.4 shall be devoted to doors or display windows having clear or low emissivity glass;

(i) Preferred uses shall provide direct, exterior access to the ground level; and

(j) The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be fourteen feet (14 ft.).

238.5 A trapeze school and aerial performing arts center may be established and continued as a matter of right in Parcel O until December 31, 2015, during which time no parking shall be required.

238.6 The continuation of the trapeze school and aerial performing arts center use after December 31, 2015 shall require approval by the Zoning Commission in accordance with the standards specified in Subtitle K § 241 and procedures specified in Subtitle K § 242, and shall include a determination as to whether and what amount of parking should be required.

239 USE PERMISSIONS (SEFC-4)

239.1 Within the SEFC-4 development area, use permissions, including uses permitted as a matter of right, as a special exception, and as an accessory use, and uses not permitted shall be in accordance with the provisions of MU-Use Group B, as prescribed in Subtitle U §§ 505 and 506.

239.2 Within the SEFC-4 open space area, only the following uses shall be permitted as a matter of right:

(a) Boat construction on an occasional basis by a local community organization;

(b) Community garden operated by a local community organization or District government agency;

(c) Publicly-accessible park or open space, playground, or athletic field, including pedestrian and bicycle trails, necessary support facilities, and fitness circuits;

(d) Public nature education or interpretive center including a boat dock; and

(e) Seasonal or occasional market for produce, arts, and crafts, with non-permanent structures.

239.3 Within the SEFC-4 open space area, the following buildings, structures, and uses are permitted only if reviewed and approved by the Zoning Commission in

accordance with the standards specified in Subtitle K § 241 and procedures specified in Subtitle K § 242:

(a) Boat launching facility, dock, wharf, or pier for use by the general public;

(b) Boat rental facility for non-motorized water vessels;

(c) Cruise line operation, including necessary associated dock and land facilities;

(d) Solid, freestanding wall and/or security gate exceeding a height of four feet (4 ft.), not including structural supports;

(e) Marina, not including floating homes;

(f) Public food concession stand(s)/kiosk(s) which may serve alcoholic drinks, to a maximum gross of three thousand square feet (3,000 sq. ft.);

(g) Water taxi and related facilities, including information/ticket booth and passenger shelter; and

(h) Other publicly-accessible maritime uses normally requiring direct access to the water.

239.4 The minimum floor-to-ceiling height for the ground floor level of buildings shall be fourteen feet (14 ft.).

239.5 All proposed structures in the SEFC-4 zone, or any proposed exterior renovation to any existing buildings or structures in the SEFC-4 zone that would result in an alteration of the exterior design, shall be subject to review and approval by the Zoning Commission, in accordance with the standards set forth in Subtitle K § 241 and procedures set forth in Subtitle K § 242.

240 COMBINED LOT DEVELOPMENT PROCEDURES (SEFC-1 AND SEFC-4)

240.1 Combined lot development is permitted within the SEFC-1 zone in accordance with Subtitle K § 202.3, and in the SEFC-4 zone in accordance with Subtitle K §§ 230.6 and 230.7.

240.2 No allocation of gross floor area shall be effective unless an instrument, legally sufficient to effect such a transfer, is filed with the Zoning Administrator in accordance with this section.

240.3 The instrument shall bind the present and future owners of the respective SEFC-1 lots so as to permanently devote residential and non-residential gross floor area on site equal to that square footage transferred or received, and shall specify the allocation of residential and non-residential uses among the lots.

240.4 The instrument shall bind the present and future owners of the SEFC-4 lots that are situated within the open space area, as described in Subtitle K § 200.8(b), to permanently forego the development of such square footage as was transferred to a lot in the development area and shall specify the amount of square footage transferred.

240.5 The Office of the Attorney General shall certify the instrument for legal sufficiency. The instrument shall also contain a certification by the Office of Planning attesting to:

(a) The lots' eligibility to send and receive allocated residential and non-residential uses; and

(b) The accuracy of the computations with respect to the amount of residential and non-residential uses or density reallocated or transferred.

240.6 The District of Columbia need not be made a party to the instrument if the instrument provides that it shall neither be modified nor terminated without the express permission of the Zoning Commission of the District of Columbia.

240.7 The instrument shall be recorded for all affected lots in the Office of Recorder of Deeds, so that the notice of restrictions and transfer shall run with the title and deed to each affected lot and so that the land records that pertain to each affected lot accurately reflect the amount and type of density associated with the lots.

240.8 A certified copy of the recorded instrument shall be filed with the Zoning Administrator before approval of any building permit application that is affected by such allocation of uses or density.

241 ZONING COMMISSION REVIEW STANDARDS (SEFC)

241.1 In addition to proving that the proposed uses, buildings, or structures meet the standards set forth in Subtitle X, the applicant for Zoning Commission approval of a use or structure within a SEFC zone shall further demonstrate conformance to the following standards:

(a) The use, building, or structure will help achieve the goals and objectives of the SEFC zone as set forth in Subtitle K §§ 200.2 through 200.7, as applicable;

(b) The proposed building or structure shall be designed with a height, bulk, and siting that provide for openness of view and vistas to and from the waterfront and, where feasible, shall maintain views of federal monumental buildings, particularly along the New Jersey Avenue, S.E. corridor; and

(c) On or above-grade parking adjacent to, or visible from, the street shall be limited. Where parking cannot be placed underground, other uses such as

retail or residential shall separate parking areas from the street, or where this is not possible, green landscaping or architectural treatment of façade shall adequately screen parking from the street and adjacent development.

241.2 In evaluating the application, the Zoning Commission also may consider:

(a) Compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping;

(b) Use of high standards of environmental design that promote the achievement of sustainable development goals;

(c) Façade articulation that minimizes or eliminates the visibility of unarticulated blank walls from public spaces;

(d) Landscaping which complements the building;

(e) For buildings that include preferred uses in accordance with Subtitle K §§ 237 or 238, the Zoning Commission may consider the balance and location of preferred uses;

(f) In connection with its review pursuant to Subtitle K § 238.3, the Zoning Commission may consider the effect of the proposed use on the predominantly residential character of the SEFC-2 and/or SEFC-3 zones; and

(g) For development within or adjacent to the SEFC-4 zone, the Zoning Commission may consider whether the project is consistent with the following goals:

(1) Providing a wide variety of active and passive recreational uses;

(2) Encouraging uses that open to, overlook, and benefit the waterfront park; and

(3) Utilizing siting and design of buildings and uses to improve the natural ecology, to illustrate the importance of natural systems, and/or to interpret the historically important maritime context of the site.

242 ZONING COMMISSION REVIEW PROCEDURES (SEFC)

242.1 At the time the Zoning Commission is considering an application for approval authorized by this chapter, the Commission may hear and decide any additional requests for zoning relief needed for the subject property.

242.2 At the time of filing an application with the Zoning Commission, the applicant shall pay the filing fee specified in Subtitle Z, Chapter 16 plus such fees as apply to any additional zoning relief requested.

CHAPTER 3 UNION STATION NORTH ZONE - USN

300 GENERAL PROVISIONS (USN)

300.1 The purposes of the USN zone are to:

(a) Implement the Comprehensive Plan by ensuring that development of the air rights is not inconsistent with the goals and policies of the Comprehensive Plan including:

(1) Creation of a catalytic development that would provide an active streetscape connection between neighborhoods west of the railroad tracks and east of the railroad tracks;

(2) Infill of an underutilized property near a multi-modal transportation hub with the provision of a mix of high density commercial and residential uses; and

(3) Preservation and enhancement of Union Station, and general economic development of the North of Massachusetts Avenue (NoMa) area and the District of Columbia;

(b) Reconnect the District of Columbia by creating an urban fabric that will reconnect the H Street commercial corridor to the east, North Capitol Street to the west, NoMa to the north and west, and Union Station to the south;

(c) Provide a suitable visual relationship to surroundings by ensuring the provision of exemplary architecture for any building in the USN zone, and encouraging upper story setbacks and minimized penthouses;

(d) Improve the character of H Street by establishing H Street, N.E., between 1st and 2nd Streets, N.E., as an attractive, active, pedestrian-oriented street with active ground floor uses and a varied façade;

(e) Utilize transportation infrastructure by facilitating development that would take advantage of Union Station's unique combination of local, regional and national investment in pedestrian, bicycle, rail transit, bus transit, and intercity rail infrastructure, and ensuring that development complements and allows the expansion and enhancement of the transportation infrastructure;

(f) Establish a mix of uses throughout the USN zone including residential and retail, as well as office, hotel, and other permitted uses; and

(g) Create a walkable environment by requiring suitable ground floor uses, appropriate building design and appropriate site layout, including wide sidewalks.

300.2 The USN zone is created to implement the Comprehensive Plan and other public policy goals and objectives.

300.3 The USN zone recognizes the unique characteristics and development constraints of the site and provides for appropriate, site specific methods for the measurement of height and density.

300.4 The USN zone shall constitute the Zoning Regulations for the geographic area referred to in Subtitle W § 119.1. Where there are conflicts between this chapter and other chapters or subtitles of this title, the provisions of the USN Zone shall govern.

300.5 When used in this chapter, the term "transportation way" means any piece of infrastructure, the intent of which is to convey people or goods from one (1) place to another. Examples include, but are not limited to, sidewalks, stairs, elevators, fixed guideways for transit, and streets. Transportation ways may be either on, above or below ground, and may be either publicly or privately-owned. Transportation ways do not include internal components of any portion of a building.

300.6 The land and the volume of space below the air rights lots shall not be zoned USN. Development will occur on top of a structural platform that will span the railroad tracks underneath.

300.7 The USN zone shall not be applied to any lot located on the ground or any air rights lot outside of the boundaries described in Subtitle W § 119.1.

301 INCLUSIONARY ZONING

301.1 Inclusionary zoning requirements for the USN zone are as specified in Subtitle C, Chapter 10.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

302 [RESERVED]

303 THE PLATFORM (USN)

303.1 The buildings to be erected within the USN zone will be supported by two (2) platforms erected above the existing railroad tracks and separated by H Street, N.E. (the platform or platforms).

303.2 The platforms will be generally horizontal structures that provide support for the new surface area, above the railroad tracks, on which development will be built.

303.3 In addition to providing structural support, the platforms may house mechanical equipment, parking and loading areas, and non-residential, residential, retail, and arts uses permitted by Subtitle K § 313, as well as utilities and rail-related uses.

303.4 Structures below the grade of the railroad tracks and generally vertical, above-grade columns and structures will support the Platforms (collectively foundation systems). The term "platform" or "platforms", when used in this chapter, does not include foundation systems or any station and rail-related functions or facilities that are constructed below the platforms on the subjacent lots.

303.5 Although portions of a platform may extend below the volume of an air rights lot, any provision of this chapter pertaining to the platform shall apply to the entire platform.

304 SINGLE BUILDINGS AND BUILDING UNITS (USN)

304.1 For the purposes of the USN zone, each platform and all improvements constructed thereon are deemed to comprise a single building.

304.2 Any part of a single building that is not connected to any other part of the same single building, other than through the structure of the platform, will be hereinafter referred to as a building unit.

305 HEIGHT (USN)

305.1 The maximum permitted building height, not including the penthouse, shall not exceed one hundred thirty feet (130 ft.), except that:

(a) The maximum permitted building height, not including the penthouse, of any portion of a building or structure that is both north of the centerline of Eye Street and east of a north-south line located two hundred feet (200 ft.) west of the eastern boundary of Lot 7002 in Square 717 shall not exceed ninety feet (90 ft.);

(b) Within the area defined in Subtitle K § 305.1(a), a building height of greater than ninety feet (90 ft.) and no more than one hundred ten feet (110 ft.) shall be permitted if reviewed and approved by the Zoning Commission pursuant to the procedures set forth in Subtitle K §§ 315 and 317, and subject to the following:

(1) The Zoning Commission will make a preliminary decision whether to approve the additional height as part of its Stage 1 review;

(2) The preliminary approval will become final unless modified or disapproved during the Stage 2 review;

(3) In making its decision, the Zoning Commission shall consider the design review criteria set forth in Subtitle K §§ 323.1(b), 323.1(d), 323.1(g), 325.1(b), and 325.1(h);

(4) The Zoning Commission must find that the building unit or units located within the defined area exhibit exceptional architectural quality; and

(5) The Zoning Commission may require upper story setbacks or other design modifications that it deems necessary;

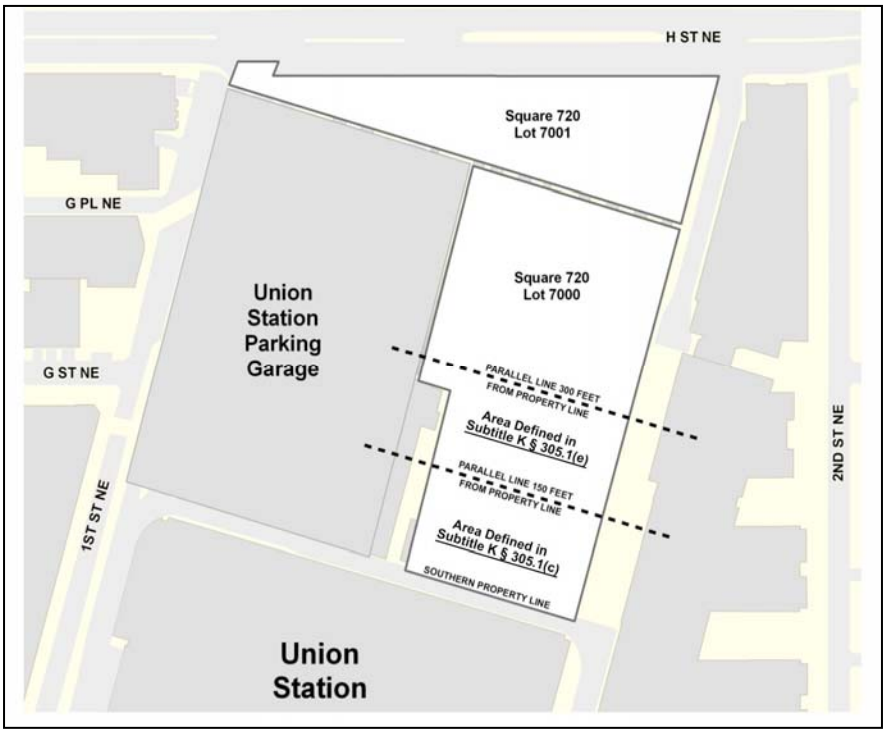
(c) The maximum permitted building height, not including the penthouse, of any portion of a building or structure that is both north of the southern property line of Lot 7000 in Square 720 and south of a parallel line one hundred fifty feet (150 ft.) from the southern property line (as that area is depicted in Figure K § 305.1) shall not exceed ninety feet (90 ft.);

(d) Within the area defined in Subtitle K § 305.1(c), a building height of greater than ninety feet (90 ft.) and no more than one hundred ten feet (110 ft.) shall be permitted if reviewed and approved by the Zoning Commission pursuant to the procedures set forth in Subtitle K §§ 315 and 317, and subject to the criteria of Subtitle K §§ 305.1(b)(1) through 305.1(b)(5);

(e) The maximum permitted building height, not including the penthouse, of any portion of a building or structure that is both north of a line parallel to and one hundred fifty feet (150 ft.) from the southern property line of Lot 7000 in Square 720 and south of a parallel line three hundred feet (300 ft.) from the southern property line (as that area is depicted in Figure K § 305.1) shall not exceed one hundred ten feet (110 ft.); and

(f) Within the area defined in Subtitle K § 305.1(e), a building height of greater than one hundred ten feet (110 ft.) and no more than one hundred thirty feet (130 ft.) shall be permitted if reviewed and approved by the Zoning Commission pursuant to the procedures set forth in Subtitle K §§ 315 and 317, and subject to the criteria of Subtitle K §§ 305.1(b)(1) through 305.1(b)(5).

FIGURE K § 305.1



305.2 The measurement of building height shall be taken from the elevation of the sidewalk on H Street at the middle of the front of the building, to the highest point of the roof or parapet rather than from grade as would otherwise be required by Subtitle C, Chapter 5.

305.3 The matter-of-right height permitted in Subtitle K § 305.1 shall serve as the maximum permitted height for a planned unit development (PUD).

306 PENTHOUSES (USN)

306.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15, and the height and story limitations specified in Subtitle K § 306.2.

306.2 The maximum permitted height of a penthouse shall be twenty feet (20 ft.), and the maximum number of stories within the penthouse shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

307 MAXIMUM FLOOR AREA RATIO – SINGLE BUILDING (USN)

307.1 The maximum density for any single building in the USN zone shall be 6.5 FAR, which shall be computed in accordance with Subtitle K § 309.

308 MAXIMUM NON-RESIDENTIAL FLOOR AREA RATIO – ZONE-WIDE LIMIT (USN)

308.1 The maximum non-residential FAR for the entire USN zone is 5.5.

308.2 Until a 0.5 FAR of residential uses have been developed within the entire USN Zone, as evidenced by a certificate or certificates of occupancy for residential uses, no certificate of occupancy for non-residential uses may be issued that would result in a non-residential FAR for the entire USN zone of greater than 3.0.

308.3 Until 1.0 FAR of residential uses have been developed within the entire USN zone, as evidenced by a certificate or certificates of occupancy for residential uses, no certificate of occupancy for non-residential uses may be issued that would result in a non-residential FAR for the entire USN zone of greater than 4.0.

308.4 The minimum residential FAR may be apportioned between the single building north of H Street and the single building south of H Street, provided that the aggregate residential floor area is not decreased.

308.5 The minimum residential density shall not include the density dedicated to residential parking located above the level of the platform.

309 COMPUTATION OF FAR (USN)

309.1 Computation of the maximum gross floor area for each building shall be determined by multiplying six and one-half (6.5) by the area of a single building's lot, subject to the exclusions identified in Subtitle K § 309.5.

309.2 Computation of the maximum non-residential gross floor area for the entire USN zone shall be determined by multiplying three (3.0), four (4.0), or five and one-half (5.5), as applicable, by the combined areas of each single building's lot, subject to the exclusions identified in Subtitle K § 309.5.

309.3 The lot of the single building north of H Street consists of the area within lots 7001 and 7002 in Square 717.

309.4 The lot of the single building south of H Street consists of the area within lots 7000 and 7001 in Square 720.

309.5 Lot area shall not include private rights-of-way that generally serve the principal entrances to building units, including the fourteen foot (14 ft.) minimum sidewalk width required by Subtitle K § 321.1(d).

309.6 Notwithstanding Subtitle K § 309.5, lot area shall include private rights-of-way that generally provide access to service, loading or automobile parking areas, as well as sidewalk area beyond the fourteen foot (14 ft.) minimum width required by Subtitle K § 321.1(d).

309.7 The term "gross floor area" has the same meaning as in Subtitle B, Chapter 1, except that the term only applies to the area of all enclosed structures above the top of the platforms.

309.8 The matter-of-right density permitted in Subtitle K §§ 307 and 308 shall serve as the maximum permitted density for a PUD.

310 BICYCLE PARKING (USN)

310.1 Bicycle parking spaces shall be provided at a minimum as follows:

TABLE K § 310.1: MINIMUM BICYCLE PARKING SPACES

Type of use	Indoor Spaces	Outdoor spaces
Residential	1 for every 3 units	1 for every 20 units, with a minimum of 2
Non-residential	1 for every 10,000 sq. ft. of gross floor area, with a minimum of 2	1 for every 40,000 sq. ft. of gross floor area, with a minimum of 2
Retail/service	1 for every 10,000 sq. ft. of gross floor area, with a minimum of 2	1 for every 5,000 sq. ft. of gross floor area, with a minimum of 2

310.2 All bicycle parking spaces shall be well lit and provide convenient access to the uses they are intended to serve.

310.3 Outdoor spaces may be provided in public space subject to the approval of the District Department of Transportation (DDOT).

310.4 All required bicycle parking spaces shall be a minimum of two feet (2 ft.) in width and six feet (6 ft.) in length.

310.5 An aisle five feet (5 ft.) in width shall be provided between rows of bicycle parking spaces and the perimeter of the area devoted to bicycle parking.

310.6 If a room or common locker not divided into individual spaces is used to meet these requirements, twelve square feet (12 sq. ft.) of floor area shall be considered the equivalent of one (1) bicycle parking space. Where manufactured metal lockers or racks are provided, each locker or stall devoted to bicycle parking shall be counted as one (1) bicycle parking space.

310.7 Signs shall be posted stating where bicycle parking spaces are located in each building or structure where bicycle parking spaces are required. The signs shall be located in a prominent place at each entrance to the building or structure. The sign shall have a white background with black lettering that is no less than two inches (2 in.) in height.

311 OFF STREET AUTOMOBILE PARKING (USN)

311.1 The provisions of Subtitle C, Chapter 7 do not apply to the USN zone.

311.2 There shall be no minimum number of automobile parking spaces required in the USN zone.

311.3 No lease or purchase agreement for a dwelling unit may include within its terms the sale or lease of an automobile parking space.

311.4 Automobile parking spaces need not be located on the same lot with the building or building unit they are intended to serve, but must be located on a lot within the USN zone.

312 LOADING (USN)

312.1 Loading shall be provided as required in Subtitle C, Chapter 9.

312.2 The Zoning Commission may, as a special exception, permit the reduction, elimination, relocation, or consolidation of loading facilities, provided that the applicant demonstrates that:

(a) The proposed number of loading facilities will be adequate to serve the related uses;

(b) The loading facilities are designed such that loading and unloading of service vehicles would be accomplished without the need to move goods and materials across public areas;

(c) The proposed loading facilities would not tend to affect adversely other modes of transportation using the adjacent public or private transportation way;

(d) The proposed loading facilities would not tend to affect adjacent properties adversely; and

(e) The Zoning Commission may impose conditions as to screening, lighting, coping, setbacks, fences, location of entrances and exits, widening of abutting transportation ways, or any other requirement it deems necessary to protect the adjacent property and the safety and function of other modes of travel.

313 USE PERMISSIONS (USN)

313.1 Use permissions, including uses permitted as a matter of right, as a special exception, and as an accessory use, and uses not permitted shall be in accordance with the MU-Use Group F of Subtitle U, Chapter 5 and Arts uses of Subtitle U, Chapter 7.

314 GROUND FLOOR AREAS REQUIRED TO BE DEVOTED TO PREFERRED USES (USN)

314.1 One hundred percent (100%) of the ground floor H Street frontage of building units, except for space devoted to building entrances or lobbies, space required to be devoted to fire control, or space dedicated to transit or rail entrances or passenger circulation, shall be occupied by uses from the following use categories:

(a) Arts, design, and creation;

(b) Entertainment, assembly, and performing arts;

(c) Eating and drinking establishments;

(d) Retail;

(e) Service, general; and

(f) Any arts use listed in Subtitle U, Chapter 7, other than the uses listed in Subtitle U § 700.1(g), the design use category.

314.2 Uses in the category service, financial may meet the requirement of Subtitle K § 314.1, subject to the following limitations:

(a) Service, financial uses shall occupy no more than one hundred (100) total linear feet of ground floor H Street frontage; and

(b) Service, financial uses shall occupy no more than fifty feet (50 ft.) of ground floor H Street frontage in any one (1) building unit.

314.3 No single commercial occupancy shall occupy more than one hundred (100) total linear feet of ground floor H Street frontage.

314.4 The entire ground floor of all building units shall have a minimum slab to slab height of fourteen feet (14 ft.), except for those spaces within the ground floor of any building unit devoted to the following uses: mechanical, electrical, and plumbing; storage; fire control; loading; retail corridors; and service corridors.

315 ZONING COMMISSION REVIEW – GENERAL (USN)

315.1 Due to the unique nature of the USN zone, all proposed buildings, structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior design, as well as any associated open spaces such as parks or plazas, shall be subject to review and approval by the Zoning Commission in accordance with the following provisions. No review or approval by the Zoning Commission is required for construction of foundation systems within the USN zone.

315.2 Subtitle K §§ 316 and 317 describe the following types of Zoning Commission reviews:

(a) Master plan;

(b) Stage 1;

(c) Stage 2; and

(d) Consolidated.

315.3 Any application must be signed by the owner of the subject air rights lot, but need not be signed by the owner of the subjacent lots, even if a portion of the platform extends into the air space below the level of the air rights lot.

316 ZONING COMMISSION REVIEW – MASTER PLAN (USN)

316.1 Prior to or together with either the first-stage 1 or the first consolidated application submitted pursuant to this chapter, the applicant shall submit for review and approval by the Zoning Commission a master plan for the entire USN zone.

316.2 A master plan review will examine, for the entire USN zone, the dimensions and locations of transportation ways and the general locations of open spaces and building sites, in accordance with the review criteria of Subtitle K § 321.

316.3 A master plan shall be determined by the Zoning Commission to be not inconsistent with the Comprehensive Plan, to generally further the purposes of the USN zone and to be acceptable in all the review criteria of Subtitle § K 321.

316.4 An approved master plan may be modified through application to the Zoning Commission, and the application for modification shall be subject to the same approval criteria as set forth in Subtitle K § 316.3.

316.5 An applicant must return to the Zoning Commission for review and approval of stage 1 and stage 2 applications or a consolidated application prior to applying for a building permit or beginning construction of any portion of the approved master plan application.

317 ZONING COMMISSION REVIEW – STAGE 1, STAGE 2, AND CONSOLIDATED APPLICATIONS (USN)

317.1 A stage 1 or stage 2 application may request review and approval of one (1) or more building units, structures or open spaces, or of one (1) or two (2) buildings.

317.2 An applicant may request consideration of the stage 1 or stage 2 applications individually or through a consolidated review.

317.3 A stage 1 review will examine the specific arrangement of building units on the site, the specific location of open spaces, the massing and height of building units, the mix of uses, access to structures, the location of transportation ways, and access to and from the platforms, in accordance with the review criteria of Subtitle K § 323.

317.4 A stage 2 review will examine the outward appearance of building units, the design of landscape and hardscape, the functionality of transportation ways, and the general location of uses, in accordance with the review criteria of Subtitle K § 325.

317.5 A consolidated review will examine all the aspects of design mentioned in Subtitle K §§ 317.3 and 317.4, in accordance with the review criteria of Subtitle K §§ 323 and 325. An application for consolidated review shall include all submittal requirements listed in Subtitle K §§ 322 and 324.

317.6 A stage 1, stage 2, or consolidated application shall be determined by the Zoning Commission to be not inconsistent with the Comprehensive Plan, not inconsistent with the approved master plan, to provide for a mix of uses, to be acceptable in all other applicable review criteria as set forth in Subtitle K §§ 323 and 325, to generally further the purposes of the USN zone, and to comply with all other requirements of this chapter.

317.7 An approved stage 1, stage 2, or consolidated application may be modified through application to the Commission, and the application for modification shall be subject to the same approval criteria as set forth in Subtitle K § 317.6.

317.8 Upon the effective date of the Zoning Commission order granting approval of a stage 1 application, the applicant may apply for a building permit to construct any portion of the platforms related to that stage 1 application.

317.9 An applicant must return to the Zoning Commission for review and approval of a stage 2 application prior to applying for a building permit or beginning construction for any other portion of the approved stage 1 review application.

318 COMMUNITY REVIEW (USN)

318.1 The affected ANC shall be granted party status to any application submitted pursuant to this chapter, and may participate in the public hearing for the application pursuant to Subtitle Z.

319 AGENCY REVIEW (USN)

319.1 The Office of Zoning shall refer the application to the Office of Planning, the District Department of Transportation, Fire and Emergency Services, the District Department of Energy and Environment, and any other relevant District agencies for review and comment.

320 MASTER PLAN SUBMITTAL REQUIREMENTS (USN)

320.1 An applicant requesting approval of a master plan application shall provide:

(a) A written description of the proposal, including a description of how the master plan review criteria are met; and

(b) A plan or plans encompassing the entire USN zone and showing:

(1) The location and dimensions of private rights-of-way and alleys;

(2) The lot areas to be used for FAR calculations, both for the entire USN zone as well as the north and south buildings, pursuant to Subtitle K § 309;

(3) The general locations of plazas, parks, or other open spaces;

(4) The general locations of sites for future building units; and

(5) Any other information needed to understand the project.

321 MASTER PLAN REVIEW CRITERIA (USN)

321.1 The following criteria are applicable to master plan applications:

(a) Internal Connectivity – Internal connections shall result in a form of development that generally reflects the grid pattern of the District and that avoids the creation of excessively large building blocks. Internal connections shall be provided through a combination of private rights-of-way, sidewalks, paths, plazas, and parks, with a main multi-modal access point to both buildings from H Street, N.E.;

(b) External Connectivity – The master plan shall provide the opportunity for pedestrian connections in appropriate and feasible locations to surrounding development and surrounding neighborhoods including Union Station, NoMa west of the railroad tracks, and northern Capitol Hill;

(c) Private Rights-of-Way Width – To facilitate pedestrian and bicycle movement, the curb-to-curb width of private rights-of-way shall not be excessively large;

(d) Sidewalk Width – The width of sidewalks along private rights-of-way that generally serve the principal entrances to building units shall not be less than fourteen feet (14 ft.); and

(e) Community Outreach – The application shall demonstrate that community outreach has occurred through participation in multiple venues and through multiple formats, including the affected ANC, and which could

include but not be limited to meetings with the community, an informational website, emails, or mailed flyers.

322 STAGE 1 SUBMITTAL REQUIREMENTS (USN)

322.1 An applicant requesting approval of a stage 1 review application shall provide:

(a) A written description of the proposal, including a description of how the applicable review criteria are met;

(b) Site plans, elevations, renderings, photographic simulations, aerial axonometric massing diagrams, or any other suitable materials necessary to describe the project;

(c) For any building unit located south of H Street, N.E., ground-level view studies from multiple vantage points showing the relationship between the proposed building unit and Union Station;

(d) A circulation plan, including the location of all transportation ways, off-street parking spaces and loading berths, including an indication of which spaces are designated for which use, and a reasonable numerical range of the number of parking spaces to be provided. The circulation plan shall show how the design facilitates north-south bicycle movement through the site and to areas outside the site, including the Metropolitan Branch Trail;

(e) The area and dimensions of the application site;

(f) The gross floor area and floor area ratio for each building unit, including a break-down for each use, and the total gross floor area and floor area ratio for the building, including a breakdown for each use;

(g) A comprehensive transportation assessment for the development under consideration, addressing pedestrian, bicycle, transit, and automobile capacity and circulation;

(h) Estimated quantities of potable water required by the project, and of sanitary sewage and storm water to be generated, including the methods of calculating those quantities; and

(i) Any other information needed to understand the project.

323 STAGE 1 REVIEW CRITERIA (USN)

323.1 The following criteria are applicable to stage 1 applications:

(a) External Connectivity – The development shall provide pedestrian connections in appropriate and feasible locations to surrounding development and surrounding neighborhoods including Union Station,

NoMa west of the railroad tracks, and northern Capitol Hill. The application shall indicate the location of all such proposed connections. Connections are especially encouraged near the intersection of 1st and K Streets, N.E., 2nd and K Streets, N.E., and 2nd and Eye Streets, N.E.;

(b) Building Unit Heights and Visual Relationship to Surroundings – A suitable height for each building unit and appropriate massing relationship between proposed building units and adjacent neighborhoods, Union Station and other historic landmarks, and the Federal precincts near the Capitol and the Supreme Court shall be provided, with particular attention paid to the eastern portion of the property north of Eye Street, N.E. The application shall also generally indicate what types of materials would be used on the portions of the exterior of the platforms constructed pursuant to Subtitle K § 317.8 that would be visible to the public;

(c) Transportation Hierarchy – The movement of pedestrians, bikes and transit shall be prioritized, and provide reasonable accommodation for automobiles. The location of parking and loading access shall not unduly impact the movement of pedestrians and bicyclists;

(d) Division of Building Form – Monolithic buildings or the creation of excessively large building blocks shall be avoided. Building unit massing and orientation should reflect the pattern of other development in the District of Columbia;

(e) Publicly Accessible Space – Any public space provided such as streets, parks or plazas shall be easily visible and publicly accessible;

(f) Mix of Uses – The application shall demonstrate how the proposal contributes to an overall mix of uses in the USN zone;

(g) Impacts on Surroundings – The proposed development shall not tend to substantially affect nearby properties adversely due to obstruction of light or air or because of noise, odors, or other impacts on air quality, including exhaust from trains. The development shall incorporate sufficient venting mechanisms for railroad uses below the site;

(h) Building Livability – The vibration and noise caused by the movement of trains under residential buildings shall be mitigated; and

(i) Community Outreach – The application shall demonstrate that community outreach has occurred through participation in multiple venues and through multiple formats, including the affected ANC, and which could include but not be limited to meetings with the community, an informational website, emails, or mailed flyers.

324 STAGE 2 SUBMITTAL REQUIREMENTS (USN)

324.1 An applicant requesting approval of a stage 2 review application shall provide:

(a) Information required in Subtitle K §§ 322.1(a) through (f);

(b) Elevations, detail drawings, renderings, or other graphics that clearly demonstrate the proposed architectural details, signage, materials to be used, and the lighting scheme for the building units;

(c) Typical floor plans and sections that show the location of uses, access to uses, points of fenestration, general internal circulation, projections and any other feature necessary to understand the project, and a table showing the floor area of each use;

(d) A detailed landscaping plan;

(e) A list of environmental features and characteristics of the development; and

(f) Any other information needed to understand the overall architectural character of the project.

325 STAGE 2 REVIEW CRITERIA (USN)

325.1 The following criteria are applicable to stage 2 applications:

(a) External Connectivity – External connections shall provide adequate size, materials, lighting and signage to move users easily and safely;

(b) Visual Relationship to Surroundings – A suitable visual relationship between building units and adjacent neighborhoods, Union Station and other historic landmarks, and the Federal precincts near the Capitol and the Supreme Court shall be provided, with particular attention paid to the eastern portion of the property north of Eye Street, N.E.;

(c) Active Entrances to Building Units – Public and publicly accessible areas such as sidewalks, parks, and plazas shall be activated through the use of operational entrances to retail, office, residential, and other uses;

(d) Visual Façade Permeability – Where there are no operational entrances to uses, design of structures fronting on public and publicly accessible areas shall incorporate windows. Or, where windows are not appropriate, unarticulated blank walls shall be minimized to the extent possible;

(e) Environmental Stewardship – A high degree of environmental stewardship shall be demonstrated. Characteristics may include, but not be limited to, the following:

(1) Onsite energy generation;

(2) Rainwater harvesting;

(3) Green roofs, including green spaces on the upper surface of the platforms;

(4) Other landscaping on the upper surface of the platforms such as rainwater capturing tree boxes;

(5) Use of native species, drought-tolerant species, adequate planting depth, and efficient irrigation in landscaping;

(6) Use of efficient plumbing fixtures and fittings, enhanced insulation, and cool roofing;

(7) Use of environmentally friendly products in construction and operation;

(8) Natural lighting, including large windows, light wells, skylights, and daylight penetration to railroad facilities below the platforms;

(9) Natural ventilation, including balconies, terraces, operable windows, and vent shafts;

(10) Minimizing construction waste; or

(11) Facilitation of transit usage by allowing and/or constructing improved access to transit facilities and interconnections between transit modes;

(f) Private Open Space – Residential uses shall incorporate private open space such as balconies and terraces for individual units where practical and architecturally compatible;

(g) Design of Open Spaces – Public and private open spaces shall incorporate shaded areas and adequate seating capacity;

(h) Light and Air – Adequate light and air shall be provided to all building units in the USN zone;

(i) Parking Access – Convenient access shall be provided from any parking provided to the uses it is intended to serve; and

(j) Community Outreach – The application shall demonstrate that community outreach has occurred through participation in multiple venues and through multiple formats, including the affected ANC, and which could

include but not be limited to meetings with the community, an informational website, emails, or mailed flyers.

326 ASSOCIATED RELIEF (USN)

326.1 Relief from any section of this chapter may be heard and decided by the Zoning Commission as a special exception in accordance with Subtitle X, Chapter 9. The applicant shall also demonstrate that the purposes of the USN Zone would be met if the relief were granted.

326.2 An applicant requesting approval of a project that would result in nonconformity with the minimum residential or maximum non-residential FAR for the USN zone, as established by Subtitle K § 308, shall demonstrate how the proposal would not be inconsistent with the purpose of establishing a mix of uses.

326.3 The Zoning Commission may hear and decide any additional request for special exception or variance relief from any other provision of the Zoning Regulations for the subject property.

326.4 Request for relief shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

327 TIMEFRAME FOR APPROVAL (USN)

327.1 The Zoning Commission may approve timeframes within which time an application must be filed for a building permit or a stage 2 application must be filed.

328 MINOR MODIFICATIONS (USN)

328.1 The Zoning Administrator shall have authority to approve minor modifications in the final plans approved by the Zoning Commission as set forth in Subtitle A § 304.4.

CHAPTER 4 HILL EAST ZONES - HE-1 THROUGH HE-4

400 GENERAL PROVISIONS (HE)

400.1 The purposes of the Hill East (HE) zones (HE-1 through HE-4) are to:

(a) Connect and integrate Reservation 13 with adjacent neighborhoods, and the new waterfront park along the Anacostia River;

(b) Utilize the site to meet a diversity of public needs, including health care, education, employment, government services and administration, retail, recreation, and housing;

(c) Extend the existing pattern of local streets to and through the site to create simple, well-organized city blocks and appropriately scaled development;

(d) Maintain a human-scale of building heights that match existing neighborhood buildings and increase in height as the site slopes downward to the Anacostia waterfront;

(e) Connect the Hill East neighborhood and the city at large to the waterfront via tree-lined public streets, recreational trails, and increased access to waterfront parklands;

(f) Demonstrate environmental stewardship through environmentally-sensitive design, ample open spaces, and a waterfront park that serve as public amenities and benefit the neighborhood and the city;

(g) Promote the use of mass transit by introducing new uses near Metro stations, and create an environment where the pedestrian, bicycle, and auto are all welcome, complementary, and unobtrusive, reducing the impact of traffic on adjacent neighborhood streets;

(h) Limit the Central Detention Facility and the Correction Treatment Facility to areas south of Massachusetts Avenue; and

(i) Create attractive "places" of unique and complementary character including:

(1) A new, vital neighborhood center around the Metro station at C and 19th Streets that serves the unmet neighborhood commercial needs of the community and extends to the waterfront with a new residential district;

(2) Massachusetts Avenue as a grand Washington 'boulevard' in the tradition of the L'Enfant plan;

(3) A district for city-wide uses and services, such as health care, education, and recreation along Independence Avenue; and

(4) A grand public waterfront park incorporating monumental places and quiet natural retreats accessed by a meandering park drive set back from the Anacostia River.

400.2 The HE zones shall constitute the Zoning Regulations for the geographic area referred to in Subtitle K §§ 400.7 and 400.8. Where there are conflicts between this chapter and other parts of the Zoning Regulations, the provisions of this chapter shall govern.

400.3 Unless specifically exempted, the requirements of the HE zones shall apply to all new buildings and to all other buildings where any additions, alterations, or repairs within any twelve (12) month period exceed one hundred percent (100%) of the assessed value of the building as set forth in the records of the Office of Tax and Revenue as of the date of a building permit application, provided:

(a) The cost basis for alterations or additions to an existing building shall be the amount indicated by the applicant on the application for a building permit; and

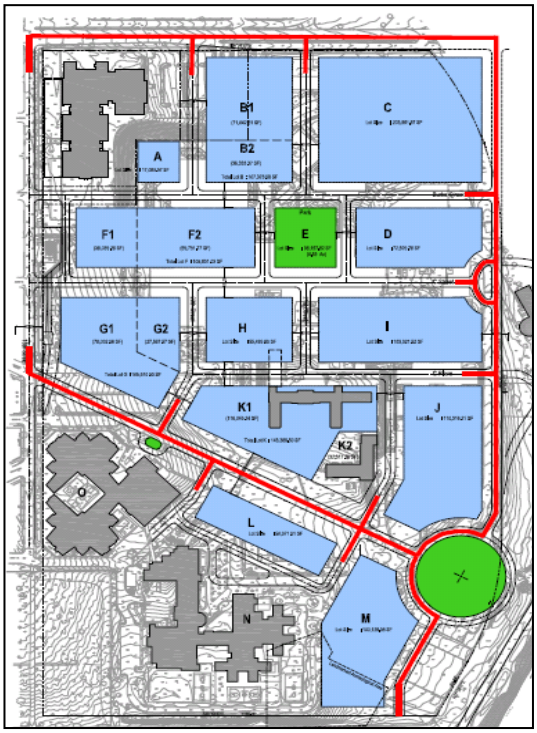
(b) In the case of an addition, the requirements and incentives of this chapter apply only to the addition.

400.4 Any reference to a street shall be deemed to include a reference to the Southeast (S.E.) quadrant.

400.5 For the purposes of this chapter, the terms:

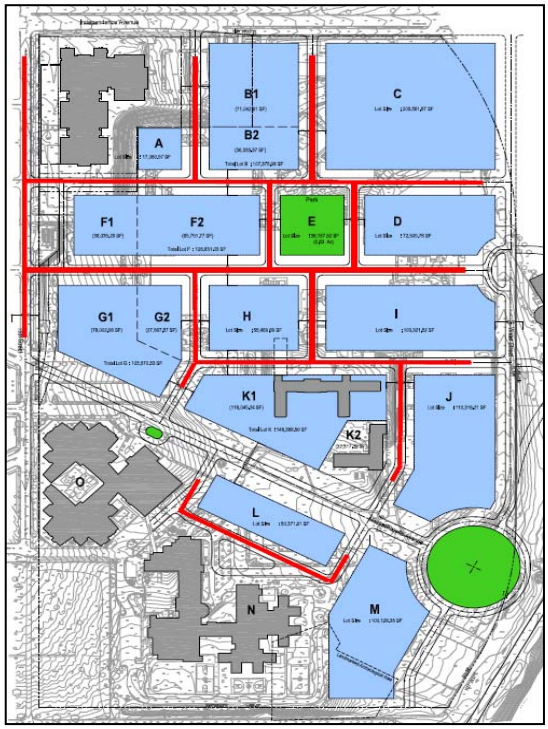
(a) "Primary street" shall mean Independence Avenue, Massachusetts Avenue, and Water Street; and

FIGURE K § 400.5(a): PRIMARY STREET FRONTAGES



(b) "Secondary street" shall refer to 19th Street, 20th Street, 21st Street, Burke Street, C Street, and C Place.

FIGURE K § 400.5(b): SECONDARY STREET FRONTAGES



400.6 The boundaries of the HE zones correspond to Federal Reservation 13, which is generally bounded by Independence Avenue on the north, 19th Street on the west, Water Street on the east, and the Congressional Cemetery on the south.

400.7 The HE zones are divided into the following four (4) zones for the purpose of lot occupancy, floor area ratio (FAR) and building height:

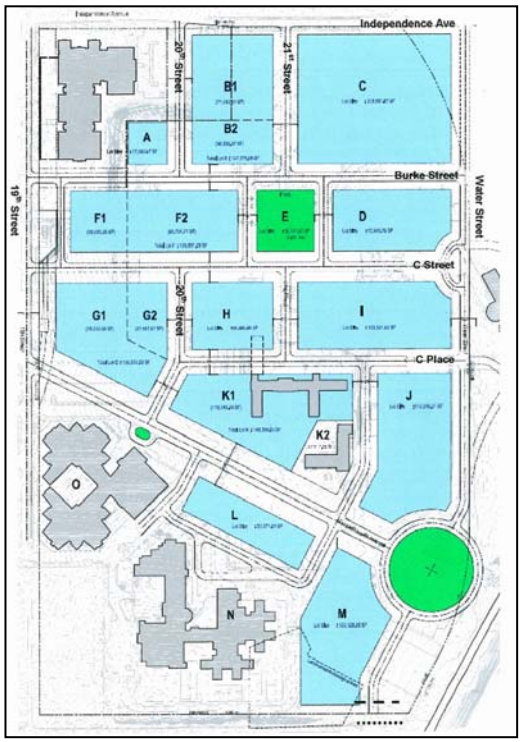
(a) HE-1 (19th Street), which includes squares with frontage onto 19th Street, between Independence Avenue, and Massachusetts Avenue;

(b) HE-2 (20th Street), which includes squares with frontage on 20th Street;

(c) HE-3 (Water Street), which includes squares with frontage on Water Street; and

(d) HE-4 (Corrections), which includes Squares N and O.

FIGURE K § 400.7: HE ZONES



400.8 Development in the HE zones shall be in accordance with the development standards found at Subtitle K § 402.

401 DEVELOPMENT STANDARDS (HE)

401.1 The development standards in Subtitle K §§ 402 through 407 control the bulk of structures in the HE zones.

401.2 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this subtitle can be found in Subtitle C.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

402 DENSITY – FLOOR AREA RATIO (FAR) (HE)

402.1 The maximum permitted FAR of buildings in HE zones shall be given in the following table:

TABLE K § 402.1: MAXIMUM PERMITTED FAR

HE Sub-district	Maximum FAR
HE-1 (19th St.)	3.0
HE-2 (20th St.)	4.8
HE-3 (Water St.)	7.2
HE-4 (Corrections)	6.0
Square E (Park)	0.2

402.2 The following density limitations on non-residential uses apply within the HE zones, but only in the squares listed below:

TABLE K § 402.2: MAXIMUM FAR FOR NON-RESIDENTIAL USES

Square	Maximum Non-residential FAR
F	0.8
G	1.0
H	0.5
I	3.0

402.3 The matter-of-right FAR shall serve as the maximum permitted height and floor area ratio for a planned unit development (PUD).

402.4 The minimum lot area for row dwellings shall be eighteen hundred square feet (1,800 sq. ft.) with a minimum lot width of eighteen feet (18 ft.).

403 HEIGHT (HE)

403.1 The maximum permitted building height and number of stories, not including the penthouse, in HE shall be given in the following table:

TABLE K § 403.1: MAXIMUM PERMITTED HEIGHT AND STORIES

HE Sub-District	Building Height		No. of Stories
	Minimum	Maximum	
HE-1 (19th St.)	26 ft.	50 ft.	4
HE-2 (20th St.)	40 ft.	80 ft.	7
HE-3 (Water St.)	80 ft.	110 ft.	10
HE-4 (Corrections)	-	90 ft.	8

HE Sub-District	Building Height Minimum	Maximum	No. of Stories
Square E (Park)	-	26 ft.	-

403.2 Building height shall be measured from the lowest curb level along a street frontage abutting the lot.

403.3 A hospital located in the HE-2 zone may exceed eighty feet (80 ft.) in height, to a maximum of one hundred ten feet (110 ft.), if approved as a special exception by the Zoning Commission pursuant to Subtitle K § 416.

403.4 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in Subtitle K § 403.5.

403.5 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in Subtitle C §1500.4, shall be as set forth in the following table:

TABLE K § 403.5: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

ZONE DISTRICT	Maximum Penthouse Height	Maximum Penthouse Stories
HE-1	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
HE-2	20 ft.	1; second story permitted for penthouse mechanical space
HE-3, HE-4	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

403.6 The matter of right height shall serve as the maximum permitted height, penthouse height, and floor area ratio for a PUD.

404 LOT OCCUPANCY (HE)

404.1 The maximum permitted lot occupancy in the HE zones shall be given in the following table:

TABLE K § 404.1: MAXIMUM PERMITED LOT OCCUPANCY

HE Sub-District	Maximum Lot Occupancy
HE-1 (19th St.)	80%
HE-2 (20th St.)	75%
HE-3 (Water St.)	80%
HE-4 (Corrections)	75%
Square E (Park)	20%

405 SETBACKS (HE)

405.1 Buildings or structures in the HE zones that abut the HE-1 zone shall provide a twelve foot (12 ft.) setback from the zone boundary line for any part of the building or structure that exceeds fifty feet (50 ft.) in height.

405.2 Buildings or structures in the HE zones that abut the HE-2 zone, or have street frontage on Burke Street, C Street, C Place, or Massachusetts Avenue, shall provide a twelve foot (12 ft.) setback for any part of the building that exceeds eighty feet (80 ft.) in height.

405.3 The portion of Square A devoted to St. Coletta's School shall be subject to Zoning Commission Order No. 03-21.

406 REAR YARD (HE)

406.1 Except as provided in Subtitle K § 406.2, no rear yard shall be required for entirely non-residential buildings.

406.2 Notwithstanding Subtitle K § 406.1, an entirely non-residential building shall have a rear yard if:

(a) The building's rear wall faces a wall of a residential building;

(b) The distance between the rear wall of the non-residential building and a wall of the residential buildings is forty feet (40 ft.) or less; and

(c) A window located on the non-residential building's rear wall would afford a direct view into the interior of the residential building through one (1) or more of the latter's windows.

406.3 The rear yard required by this section shall have a depth equal to the distance between the rear wall of the non-residential building and the facing wall of the residential building.

406.4 All residential buildings shall provide a rear yard in accordance with either Subtitle K §§ 406.5 or 406.6.

406.5 When the residential portion of a building begins at or below grade, the building shall provide a rear yard with a minimum depth of three inches (3 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof, but not less than twelve feet (12 ft.).

406.6 When the residential portion of a building begins above grade, the building shall provide a rear yard with a minimum depth of three inches (3 in.) per one foot (1 ft.) of vertical distance from the horizontal plane at which the residential use begins to the highest point of the main roof, but not less than twelve feet (12 ft.).

The rear yard shall be provided at and above the horizontal plane at which residential use begins.

407 SIDE YARD (HE)

407.1 No side yard is required; however, if a side yard is provided it shall be no less than eight feet (8 ft.).

408 PARKING, LOADING, AND VEHICLE ACCESS (HE)

408.1 Parking requirements for the HE zones are as specified in Subtitle C.

408.2 Bicycle parking requirements for the HE zones are as specified in Subtitle C.

408.3 Loading requirements for the HE zones are as specified in Subtitle C.

408.4 Loading berths shall not front onto a primary or secondary street.

408.5 No driveway or garage entrance providing access to parking or loading areas shall be permitted from a primary or secondary street.

408.6 Driveways or garage entrances shall not be located closer than forty feet (40 ft.) from the intersection of an alley and secondary street as measured from the intersection of the curb lines extended.

408.7 A garage shall be set back at least twelve feet (12 ft.) from the center line of an alley.

408.8 Exceptions from the prohibitions and limitations of this section, except those that pertain to use,) shall be permitted if approved by the Zoning Commission pursuant to Subtitle X, Chapter 9, provided the applicant demonstrates that:

(a) There is no practical alternative means of serving the parking, loading, or drop-off needs of the building to be served by the proposed driveway or garage entrance;

(b) The driveway or garage entrance will not impede the flow of pedestrian traffic; and

(c) The driveway or garage entrance is not inconsistent with the DDOT landscape plans for the public rights of way in the Hill East Waterfront area, to the extent that such plans exist at the time of the special exception application.

409 ZONING COMMISSION REVIEW (HE)

409.1 The Zoning Commission shall review the design of all new buildings, or additions to existing buildings for consistency with the design guidelines set forth at

Subtitle K §§ 419 through 421 and with the purposes as stated in Subtitle K § 400 of this chapter.

409.2 For good cause shown, the Zoning Commission, in its discretion, may waive one (1) or more of the design standards set forth in Subtitle K §§ 417 through 419.

409.3 The Zoning Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property, including the special exceptions provided for in this chapter. Such requests shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

409.4 At the time of filing an application with the Zoning Commission, the applicant shall pay the filing fee specified in Subtitle Z, plus such fees as apply to any additional zoning relief requested.

410 USE PERMISSIONS (HE)

410.1 This chapter contains use permissions and any applicable conditions in the HE zones.

410.2 Antenna uses are permitted as a matter of right, subject to the standards and procedures that apply to the particular class of antenna pursuant to Subtitle C, Chapter 13.

410.3 The following uses are permitted in the HE zones:

(a) Agriculture, residential;

(b) Arts, design and creation;

(c) Community-based institutional facility uses are permitted subject to the following provisions:

(1) The uses shall not house more than six (6) persons, not including resident supervisors or staff and their families;

(2) A use which houses seven (7) to fifteen (15) persons, not including resident supervisors or staff and their families, is permitted, provided that there shall be no property containing an existing community-based institutional facility for seven (7) or more persons either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the subject property; and

(3) A community based residence facility not meeting these criteria may be approved by special exception in accordance with Subtitle K § 412.1;

(d) Daytime care;

(e) Eating and drinking establishments subject to the following conditions:

(1) A drive-through, fast food restaurant or food delivery service shall not be permitted; and

(2) Carry-out services shall be limited to those that are customarily accessory to the eating or drinking establishment;

(f) Emergency shelter uses are permitted by-right provided that the use may not house more than four (4) persons, not including resident supervisors or staff and their families;

(g) Entertainment, assembly, and performing arts;

(h) Government, local;

(i) Lodging;

(j) Office;

(k) Parks and recreation;

(l) Residential;

(m) Retail; and

(n) Service, general and financial.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

411 PREFERRED USES (HE)

411.1 For the purposes of the HE zones, preferred uses shall include retail, entertainment, assembly, and performing arts, and service uses.

412 USES PERMITTED BY SPECIAL EXCEPTION (HE)

412.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, subject to Subtitle K § 413 and any applicable provisions of this section:

(a) Basic utilities' uses and supporting infrastructure facilities, such as an electrical substation, natural gas regulator station, pump station, telecommunications facility, or any co-generation facility. Additional setbacks and screening requirements may be required as the Board of Zoning Adjustment deems necessary for protection of the surrounding neighborhood;

(b) A community-based institutional facility not meeting the matter-of-right conditions of Subtitle K § 410 as follows:

(1) Residential uses for nine (9) to fifteen (15) persons, not including resident supervisors or staff and their families;

(2) Community-based institutional facility for one (1) to fifteen (15) persons, not including resident supervisors or staff and their families; and

(3) Additions to or replacement of the Central Detention Facility and the Correction Treatment Facility, provided:

(A) Any addition or replacement to the facilities shall be located only on Squares N and O; and

(B) The application shall include a detailed plan for the facilities and accessory facilities, showing the location, height, and bulk of all improvements, including but not limited to buildings, parking and loading facilities, screening, signs, and utility facilities;

(c) Private school, including residences for teachers and/or staff, subject to the following conditions:

(1) The use shall be located only on Squares A, B, C, and/or K;

(2) The use shall comply with the height, floor area ratio and lot occupancy standards of each respective square; and

(3) The use shall meet the requirements of Subtitle X, Chapter 1;

(d) Campus plan for a college or university use, including a college or university hospital, dormitory, fraternity, or sorority house, proposed to be located on the campus of a college or university, subject to the following conditions:

(1) The use shall be located only on Squares A, B, C, and/or K;

(2) The use shall comply with the height, floor area ratio and lot occupancy standards of each respective square; and

(3) The use shall meet the requirements of Subtitle X, Chapter 1;

(e) Emergency shelter uses for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families;

(f) Fast food establishment or food delivery business subject to the following

conditions:

(1) The use shall not include a drive-through;

(2) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions;

(3) There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site; and

(4) The Zoning Commission may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property;

(g) Health care uses:

(1) A hospital use may be located only on Square B and/or C subject to the design conditions of this chapter and provided that:

(A) Need of the facility is demonstrated through a certificate of need, including a review and report by the Department of Human Services on the need for the facility and on the ability of the specific design of the facility to meet that need; and

(B) There is a detailed plan for the facility and accessory buildings, showing the location, height, and bulk of all improvements, including but not limited to buildings, parking and loading facilities, screening, signs, capacities of the various facilities, and public utility facilities; and

(2) A skilled care facility or intermediate nursing care facility under the Health Care Facilities and Community Residence Regulations;

(h) Community service center to accommodate organizations created for the purpose of improving the social or economic well-being of the residents of the area in which the center is proposed to be located, which may include, but not be limited to, centers for job training, family counseling, consumer cooperatives, and such other facilities as are similar in nature and purpose, provided that the community service center shall not be organized for profit, and no part of its net income shall inure to the benefit of any private shareholder or individual;

(i) Parking uses, subject to the following conditions:

(1) Parking in above grade structures, provided:

(A) Structures shall not directly front onto a primary or secondary street,

(B) Preferred uses, as defined in Subtitle K § 411, shall occupy the ground floor to a minimum depth of thirty (30) feet to separate parking areas from the primary or secondary street; and

(C) Upper floors shall be separated from a primary or secondary street by commercial or residential uses; and

(2) New or expanded at-grade surface parking lots accessory to an existing use or building for a period of five (5) years which may be renewed a maximum of two (2) times; and

(j) Other principal uses that are not permitted by Subtitle K § 410, but not prohibited by Subtitle K § 415 shall be permitted in the HE zones as a special exception subject to the following conditions in addition to the general special exception criteria of Subtitle X and Subtitle K § 416; provided the Zoning Commission considers that the use is appropriate in furthering the purposes of the HE zones.

413 SPECIAL EXCEPTIONS – GENERAL USE PROVISIONS (HE)

413.1 In addition to the general standard set forth in Subtitle X, and any specific conditions set forth in Subtitle K § 412, an applicant for a special exception within the HE zones must demonstrate the following:

(a) Parking and traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses;

(b) Noise associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses;

(c) The proposed building will comply with the applicable ground floor use and design requirements of Subtitle K §§ 416 through 419;

(d) The building's architectural design will enhance the urban design features of the immediate vicinity in which it is located; and

(e) Vehicular access and egress will be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions.

413.2 The Office of Planning shall refer applications for special exceptions filed pursuant to this section to the District Department of Transportation, and shall submit a report for each such application addressing:

(a) Whether the proposed use furthers the purposes of the HE zones;

(b) The relationship of the proposed use to other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government;

(c) The impact of the proposed use on neighboring properties; and

(d) Any other matters that are within the Office of Planning's jurisdiction.

413.3 The Board of Zoning Adjustment or Zoning Commission may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the HE District.

414 ACCESSORY USES (HE)

414.1 Except when required as a special exception by Subtitle K § 412 or not permitted by this section, accessory uses, buildings, or structures customarily incidental and subordinate to the principal uses permitted in Subtitle K § 410 shall be permitted in the HE zones as a matter of right subject to any limitations of this subtitle.

414.2 Parking as an accessory use shall be permitted except that at-grade accessory surface parking lots shall not be permitted.

415 PROHIBITED USES IN THE HE ZONES (HE)

415.1 The following uses are prohibited within the HE zones as both principal and accessory uses, unless otherwise noted:

(a) Any establishment that has as its principal use the administration of massages;

(b) Any industrial use first permitted in an MU zone;

(c) At-grade surface parking lots, except as provided in Subtitle K § 412.1(i)(2);

(d) Drive-through establishment (any establishment where goods are sold/rented or services rendered, directly to occupants of motor vehicles while in the vehicles);

(e) Self-service storage establishment that provides separate storage areas for individual or business uses;

(f) Sexually-oriented business establishment; and

(g) Vehicle sales, repair and servicing, including full-serve and mini-serve gas stations, unattended key card stations, car washes, quick lubrication services, and vehicle emission test sites.

416 INCLUSIONARY HOUSING REQUIREMENTS (HE)

416.1 Development that is subject to the inclusionary zoning requirements in Subtitle C, Chapter 10 shall be constructed according to the provisions set forth in Subtitle K § 402, notwithstanding any bonus it may be granted by Subtitle C, Chapter 10.

417 GROUND FLOOR USE REQUIREMENTS (HE)

417.1 The following locations are required to devote not less than sixty-five percent (65%) of the ground floor frontage to preferred uses and main building entrances, or lobbies to office and residential uses, and shall comply with the design requirements of Subtitle K §§ 418 through 420:

(a) The west face of Square F (19th Street frontage);

(b) The northwest corner of Square G;

(c) The southeast corner of Square J at Massachusetts Avenue and Water Street, facing the monumental circle;

(d) The northeast corner of Square M at Massachusetts Avenue and Water Street, facing the monumental circle; and

(e) All Independence Avenue and Massachusetts Avenue frontages.

417.2 The following locations are permitted to have ground floor preferred uses, provided that the building shall be constructed so that not less than sixty-five percent (65%) of the ground floor frontage will be devoted to preferred uses and main building entrances, or lobbies to office and residential uses and shall comply with the design requirements of Subtitle K §§ 418 through 420:

(a) All frontages on 19th Street;

(b) All frontages on Burke Street;

(c) The C Street frontage of Square H, facing the park in Square E, for a maximum length of two hundred feet (200 ft.) from Square H's northeast corner at the intersection of C Street and 21st Street;

(d) The 21st Street frontage of Square D;

(e) The southeast corner of Square D, which faces the intersection of C Street and Water Street;

(f) The northeast corner of Square I, which faces the intersection of C Street and Water Street; and

(g) All frontages on Water Street.

418 DESIGN STANDARDS FOR GROUND FLOOR PREFERRED USES CONDITIONS (HE)

418.1 Wherever preferred uses, as defined in Subtitle K §411, are required or allowed pursuant to Subtitle K §§ 412, such ground floor preferred uses shall:

(a) If located on a corner, wrap around the corner to a minimum depth of twenty feet (20 ft.) on the side street;

(b) Occupy the ground floor to a minimum depth of thirty feet (30 ft.);

(c) Have a minimum clear floor-to-ceiling height of fourteen feet (14 ft.), measured from the finished grade, for the area of the ground floor dedicated to preferred uses;

(d) The street-facing facades of buildings on primary streets shall devote not less than seventy-five percent (75%) per individual use or fifty percent (50%) of the length and fifty percent (50%) of the surface area of the street wall at the ground level to windows associated with preferred uses or windows associated with main building entrances; and

(e) The street-facing facades of mixed-use or non-residential buildings on secondary streets shall devote not less than seventy-five percent (75%) per individual use or thirty percent (30%) of the length and thirty percent (30%) of the surface area of the street wall at the ground level to windows associated with preferred uses or windows associated with main building entrances.

418.2 The windows required by Subtitle K § 418.1(d) shall have clear or clear/low-emissivity glass allowing transparency to a depth of twenty feet (20 ft.) into the preferred ground level space, with bottom sills no more than four feet (4 ft.) above the adjacent sidewalk grade.

418.3 Such windows must allow views from within the building to the street.

419 DESIGN CONDITIONS (HE)

419.1 The provisions of this section establish the design requirements for all buildings and structures located in the HE zones.

419.2 Except as provided in Subtitle K § 418.2, the front of a building or structure shall extend to the property line(s) abutting the street right-of-way for not less than ninety percent (90%) of the property line and to a height of not less than twenty-five feet (25 ft.).

419.3 Whatever portion of the front of a building or structure that does not extend to the property line(s) pursuant to Subtitle K § 419.2 must extend to within twenty-five feet (25 ft.) of the front property line and to a height of not less than twenty-five feet (25 ft.).

419.4 Awnings, canopies, bay windows, and balconies may extend forward of the required building line to the extent permitted by any other regulations.

419.5 For every fifty feet (50 ft.) of uninterrupted building façade length, the building shall incorporate modulated and articulated building wall planes through the use of projections, recesses and reveals expressing structural bays, changes in color graphical patterns, texture, or changes in building material of the façade.

419.6 The articulation shall have a minimum change of plane of six inches (6 in.).

419.7 Façade articulation of less than two feet (2 ft.) in depth shall qualify to meet the street frontage required building line standards of Subtitle K §§ 419.2 and 419.3.

419.8 Any single articulation feature shall not exceed sixty percent (60%) of the building façade width.

419.9 Buildings with ground floor retail shall incorporate vertical elements to create a series of storefront-type bays with entrances that are no more than fifty feet (50 ft.) apart.

419.10 Security grilles shall have no less than seventy percent (70%) transparency.

419.11 Street-facing facades shall not have blank walls (without doors or windows) greater than ten feet (10 ft.) in length.

419.12 Each use within a building shall have an individual public entrance that is clearly defined and directly accessible from the public sidewalk.

419.13 Exterior display of goods and exterior storage between the building line and the front lot line is prohibited. Outdoor seating for restaurants and pedestrian-oriented accessory uses, such as flower, food, or drink stands, or other appropriate vendors, are permitted to the extent consistent with other District laws.

419.14 Windows shall cover the following minimum area of street-facing façades above the ground floor level.

TABLE K § 419.14: MINIMUM PERCENTAGE OF STREET-FACING FAÇADES

Location	Minimum Percentage	
	Non-Residential	Residential
Primary Street	35%	20%
Secondary Street	40%	20%

419.15 Buildings and structures shall clearly articulate a base, middle, and top, except for row dwellings and flats.

419.16 High quality, durable materials which enhance the building and convey permanence shall be required.

419.17 The use of synthetic stucco, vinyl siding, and/or other low-grade exterior finishes is prohibited.

420 DESIGN CONDITIONS FOR BUILDINGS LOCATED ON PRIMARY STREETS (HE)

420.1 The provisions of this section set forth standards for buildings and structures with frontage(s) on a primary street.

420.2 Notwithstanding Subtitle K §§ 419.2 and 419.3, the fronts of buildings located at street intersections shall be constructed to the property lines abutting each intersecting street, without any setback, for a minimum of fifty feet (50 ft.) from the intersection, along each street frontage.

420.3 The corner of the building at the intersection of two (2) primary streets or a primary and secondary street shall incorporate articulation such as, but not limited to, being angled, curved, or chamfered to emphasize the corner.

420.4 The distance from the corner shall not exceed twenty feet (20 ft.), measured from the corner of the lot to the end of the angled or curved wall segment.

420.5 Entrances into a building shall be no more than fifty feet (50 ft.) apart and recessed no more than six feet (6 ft.) deep or ten feet (10 ft.) wide.

420.6 Buildings shall incorporate vertical elements in the street-facing façade to create a series of storefront-type bays where preferred uses are present.

420.7 Residential buildings shall have at least one (1) primary entrance directly accessible from the public sidewalk.

420.8 Instead of the windows required by Subtitle K § 418.1(d), on primary streets artwork and displays relating to activities occurring within the building shall be permitted as a special exception if approved by the Zoning Commission pursuant to Subtitle X, provided the applicant demonstrates that:

(a) The building has more than fifty percent (50%) of its ground level space in storage, parking, or loading areas, or in uses which by their nature are not conducive to windows (such as theaters); and

(b) The artwork or displays are consistent with the objective of providing a pleasant, rich, and diverse pedestrian experience.

CHAPTER 5 CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7

500 GENERAL PROVISIONS (CG)

500.1 The purposes of the Capitol Gateway (CG) zones (CG-1 through CG-7) are to:

(a) Assure development of the area with a mixture of residential and commercial uses, and a suitable height, bulk, and design of buildings, as generally indicated in the Comprehensive Plan and recommended by planning studies of the area;

(b) Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural, and hotel uses;

(c) Allow for continuation of existing industrial uses, which are important economic assets to the city, during the extended period projected for redevelopment;

(d) Provide for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous public open space along the waterfront with frequent public access points;

(e) Require suitable ground-level retail and service uses and adequate sidewalk width along M Street, S.E., near the Navy Yard Metrorail station;

(f) Provide for development of Squares 702-706 and Reservation 247 as a ballpark for major league sport and entertainment and associated uses;

(g) Provide for the establishment of South Capitol Street between M Street, S.E., and the Anacostia waterfront as a monumental civic boulevard;

(h) Provide for the development of Half Street, S.E., as an active pedestrian-oriented street with active ground floor uses and appropriate setbacks from the street facade to ensure adequate light and air, and a pedestrian scale; and

(i) Provide for the development of First Street, S.E., as an active pedestrian-oriented street with active ground floor uses, connecting M Street, the Metro Station, and existing residential neighborhoods to the Ballpark site and the Anacostia Waterfront.

500.2 The CG zones shall constitute the Zoning Regulations for the geographic area referred to in Subtitle W § 101.1. Where there are conflicts between this chapter and other chapters or subtitles of this title, the provisions of the CG Zone shall govern.

500.3 Development in the CG zones shall be in accordance with the development standards found at Subtitle K §§ 501 through 506.

500.4 Inclusionary zoning development standards for the CG zones are as established in this chapter and indicated by the abbreviation IZ, and all other inclusionary zoning requirements for the CG zones are as specified in Subtitle C, Chapter 10.

500.5 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

501 DEVELOPMENT STANDARDS (CG-1)

501.1 The CG-1 zone is intended to permit high-density housing and appropriate renovation of or addition to the existing housing stock.

501.2 The development standards of Subtitle K §§ 501.3 to 501.11 shall control the bulk of buildings in CG-1 zone.

501.3 The maximum permitted floor area ratio (FAR) in the CG-1 zone shall be 6.0, or 7.2 with IZ, with a maximum residential FAR of 6.0 or 7.2 FAR with IZ.

501.4 The maximum permitted building height, not including the penthouse, in the CG-1 zone shall be ninety feet (90 ft.). Subtitle K § 510 contains design-related conditions on height and upper story setbacks for South Capitol Street, a designated street of Subtitle K § 508.

501.5 The maximum permitted height of a penthouse in the CG-1 zone shall be twenty feet (20 ft.), and the maximum number of stories within the penthouse shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

501.6 The maximum permitted lot occupancy in the CG-1 zone shall be seventy-five percent (75%) or ninety percent (90%) with IZ.

501.7 A minimum rear yard of fifteen feet (15 ft.) shall be required in the CG-1 zone. The Board of Zoning Adjustment may grant a special exception for an addition that cannot comply with the rear yard regulations. In addition to complying with the general special exception criteria of Subtitle X, the Board of Zoning Adjustment shall find that the addition, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of buildings along the subject street frontage.

501.8 No side yard is required for the principal building; however, any side yard provided to any portion of the principal building shall be at least three inches (3 in.) per one foot (1 ft.) of height, and no less than five feet (5 ft.).

501.9 Where an open court is provided, the court shall have the following minimum dimensions:

TABLE K § 501.9: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential (except hotel):	4 in./ft. of height of court; 10 ft. minimum.	4 in./ft. of height of court; 15 ft. minimum.	Twice the square of the required width of court dimension; 350 sq. ft. minimum.
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum.	2.5 in./ft. of height of court; 12 ft. minimum.	Twice the square of the required width of court dimension; 250 sq. ft. minimum.

501.10 In the case of an alteration affecting the amount of light and ventilation required in an existing building in a Residence District by other municipal law or regulation, no legally required window shall be permitted to open onto a court that does not comply with the dimensions given in Subtitle K § 501.9.

501.11 The minimum required green area ratio (GAR) for the CG-1 zone shall be 0.3.

502 DEVELOPMENT STANDARDS (CG-2)

502.1 The CG-2 zone is intended to permit medium-density mixed-use development with a focus on residential use and provide for the establishment of South Capitol Street as a monumental civic boulevard.

502.2 The development standards in Subtitle K §§ 502.3 through 502.11 shall control the bulk of buildings in CG-2 zone.

502.3 The maximum permitted FAR in the CG-2 zone shall be 6.0 or 7.2 FAR with IZ, with a maximum non-residential FAR of 2.0. Non-residential floor area shall be the total gross floor area of the building not dedicated to uses in one (1) of the following categories:

(a) Residential;

(b) Emergency shelter;

(c) Lodging uses; or

(d) Education uses that are operated or chartered by the District Government.

502.4 The maximum permitted building height, not including the penthouse, in the CG-2 zone shall be ninety feet (90 ft.), or one hundred and ten feet (110 ft.) if permitted by the Inclusionary Zoning regulations set forth in Subtitle C, Chapter

10. Subtitle K § 510 contains design-related conditions on height and upper story setbacks for South Capitol Street, a designated street of Subtitle K § 508.

502.5 The maximum permitted height of a penthouse in the CG-2 zone shall be twenty feet (20 ft.), and the maximum number of stories within the penthouse shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

502.6 The maximum permitted lot occupancy for residential use in the CG-2 zone shall be eighty percent (80%), or ninety percent (90%) if permitted by the Inclusionary Zoning regulations set forth in Subtitle C, Chapter 10.

502.7 The rear yard requirements for the CG-2 zone are as follows:

(a) A minimum rear yard of fifteen feet (15 ft.) shall be required in the CG-2 zone;

(b) If the property does not abut an alley, the required rear yard shall be measured as follows:

(1) Measure a horizontal plane from the mean elevation of the rear lot-line, parallel to the rear lot line, into the lot, the distance of the required minimum yard identified in the development standards table; and

(2) From the furthest point from the rear lot-line along the horizontal plane, identified in the previous paragraph, define a vertical plane up to the maximum height limit of the zone. This vertical plane will form the rear yard; and

(c) If the property abuts and alley, the required rear yard shall be measured as follows:

(1) Measure a horizontal plane twenty-five feet (25 ft.) above the mean elevation of the rear lot-line, parallel to the rear lot line, into the lot, the distance of the required minimum yard identified in the development standards table; and

(2) From the furthest point from the rear lot-line along the horizontal plane identified in the previous paragraph, measure a vertical plane up to the maximum height limit of the zone. This vertical plane will form the rear yard.

502.8 No side yard is required for the principal building; however, any side yard provided on any portion of the principal building shall be at least two inches (2 in.) per one foot (1 ft.) of height, and no less than five feet (5 ft.).

502.9 Where an open court is provided, the court shall have the following minimum dimensions:

TABLE K § 502.8: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential (except hotel):	4 in./ft. of height of court; 10 ft. minimum.	4 in./ft. of height of court; 15 ft. minimum.	Twice the square of the required width of court dimension; 350 sq. ft. minimum.
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum.	2.5 in./ft. of height of court; 12 ft. minimum.	Twice the square of the required width of court dimension; 250 sq. ft. minimum.

502.10 In the case of an alteration affecting the amount of light and ventilation required in an existing building in an R, RF, or RA zone by other municipal law or regulation, no legally required window shall be permitted to open onto a court that does not comply with the dimensions given in Subtitle K § 502.9.

502.11 The minimum required GAR for the CG-2 zone shall be 0.3.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

503 DEVELOPMENT STANDARDS (CG-3)

503.1 The CG-3 zone is intended to permit high-density mixed-use development with a focus on employment and provide for the establishment of South Capitol Street as a monumental civic boulevard.

503.2 The development standards in Subtitle K §§ 503.3 through 503.10 shall control the bulk of buildings in CG-3 zone.

503.3 The maximum permitted FAR in the CG-3 zone shall be 6.5 or 7.8 FAR with IZ. Non-residential floor area shall be the total gross floor area of the building not dedicated to uses in one (1) of the following categories:

(a) Residential;

(b) Emergency shelter;

(c) Lodging uses; or

(d) Education uses that are operated or chartered by the District Government.

503.4 The maximum permitted building height, not including the penthouse, in the CG-3 zone shall be ninety feet (90 ft.). Subtitle K § 510 contains design-related

conditions on height and upper story setbacks for segments of South Capitol Street, a designated street of Subtitle K § 508.

503.5 The maximum permitted height of a penthouse in the CG-3 zone shall be twenty feet (20 ft.), and the maximum number of stories within the penthouse shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

503.6 The rear yard requirements for the CG-3 zone are as follows:

(a) A minimum rear yard of twelve feet (12 ft.) shall be required in the CG-3 zone; and

(b) The required rear yard shall be measured as follows:

(1) If the lot abuts an alley, the rear yard may be measured from the center line of an alley abutting a rear-lot line, instead of the rear lot-line. If the lot does not abut an alley, the rear yard shall be measured from the rear lot line;

(2) Measure a horizontal plane twenty-five feet (25 ft.) above the mean elevation of the rear lot-line, parallel to the rear lot-line, into the lot, the distance of the required minimum yard identified in the development regulations table;

(3) From the furthest point from the rear lot-line along the horizontal plane identified in the previous paragraph, measure a vertical plane up to the maximum height limit of the zone;

(4) Measure an angular plane from the mean elevation of the rear lot-line, into the lot, with a vertical rise to horizontal run ratio of four and sixty-six tenths to one (4.66:1), up to the maximum height limit of the zone; and

(5) The vertical plane of paragraph (3), and, the angular plane of paragraph (4) from the point where it intersects the vertical plane of paragraph (3), shall form the rear yard.

503.7 No side yard is required for the principal building; however, any side yard provided on any portion of the principal building shall be at least two inches (2 in.) per one foot (1 ft.) of height, and no less than five feet (5 ft.).

503.8 Where an open court is provided, the court shall have the following minimum dimensions:

TABLE K § 503.8: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential (except hotel):	4 in./ft. of height of court; 10 ft. minimum.	4 in./ft. of height of court; 15 ft. minimum.	Twice the square of the required width of court dimension; 350 sq. ft. minimum.
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum.	2.5 in./ft. of height of court; 12 ft. minimum.	Twice the square of the required width of court dimension; 250 sq. ft. minimum.

503.9 In the case of an alteration affecting the amount of light and ventilation required in an existing building in an R, RF, or RA zone by other municipal law or regulation, no legally required window shall be permitted to open onto a court that does not comply with the dimensions given in Subtitle K § 503.8.

503.10 The minimum required GAR for the CG-3 zone shall be 0.25.

504 DEVELOPMENT STANDARDS (CG-4)

504.1 The CG-4 zone (CG/CR) is intended to permit medium- to high-density mixed-use development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions; encourage provision of active pedestrian-oriented streets with active ground floor uses, particularly along specified primary streets; and promote pedestrian safety by separating pedestrian and vehicular circulation patterns.

504.2 The development standards in Subtitle K §§ 504.3 through 504.9 shall control the bulk of buildings in CG-4 zone.

504.3 The permitted FAR in the CG-4 zone is as follows:

(a) The maximum permitted FAR in the CG-4 zone shall be 7.0 or 7.2 FAR with IZ, with a maximum non-residential FAR of 3.0;

(b) A building shall be allowed a maximum FAR of 8.2; provided that the additional 1.0 FAR shall be devoted solely to residential uses, which, for the purposes of this subsection, does not include hotel uses;

(c) A building or structure for a parks and recreation use shall have a maximum permitted gross floor area of forty-thousand square feet (40,000 sq. ft.); and

(d) To help ensure the provision of the desired range of uses and to encourage the development of a mix of uses in the CG-4 zone, two (2) or more lots

within the CG-4 zone may be combined for the purposes of allocating residential and non-residential uses regardless of the normal limitation on floor area by uses on each lot, subject to the following:

(1) The non-residential floor area of a building may exceed the zone's non-residential density, up to the maximum total density permitted within that zone;

(2) Non-residential floor area shall be the total gross floor area of the building not dedicated to uses in one (1) of the following categories:

(A) Residential;

(B) Emergency shelter; or

(C) Lodging uses;

(3) The aggregate residential and non-residential floor area on a lot shall not exceed the matter-of-right maximum floor area or height of the zone district, except when bonus density is being constructed in accordance with the provisions of Subtitle K § 504.3(b);

(4) The residential and nonresidential floor area on each individual parcel shall not exceed a maximum FAR of 8.0 on parcels for which a height of one hundred ten feet (110 ft.) is permitted or 8.5 FAR on parcels for which a height of one hundred thirty feet (130 ft.) is permitted by the Height Act;

(5) The amount of commercial density transferred from one (1) parcel to another may not exceed the lesser of an FAR of 3.0 or the amount of residential density being transferred;

(6) This section may not be used to transfer density to or from any other zone;

(7) The Zoning Commission may, at its discretion, grant an additional transfer of density of 1.0 FAR maximum to or within Squares 700, 701, and 702, subject to the applicant addressing to the satisfaction of the Zoning Commission the objectives and guidelines of Subtitle K § 510, as applicable; and

(8) No allocation of gross floor area shall be effective unless an instrument, legally sufficient to effect such a transfer, is filed consistent with the provisions of Subtitle K § 511.

504.4 The maximum permitted height in the CG-4 zone shall be as follows:

(a) The maximum permitted building height, not including the penthouse, in the CG-4 zone shall be ninety feet (90 ft.) and one-hundred feet (100 ft.) with IZ; and

(b) Maximum permitted building height, not including the penthouse, shall be that permitted under the Height Act for any site utilizing the residential bonus density of Subtitle K § 504.3(b); or receiving combined lot density pursuant to Subtitle K § 504.3(f) but only to the extent necessary to accommodate any additional density received from another parcel:

(1) Subtitle K § 510 contains design-related conditions on height and upper story setbacks for segments of Half Street, S.E., Potomac Avenue, and South Capitol Street, designated streets of Subtitle K § 508; and

(2) In Squares 601, 656, and 657, those lots abutting or separated only by a street or alley from residentially zoned property shall provide a one-to-one (1:1) building setback for any part of a building or structure that exceeds ninety feet (90 ft.) on the side abutting the residential zone.

504.5 The maximum permitted height of a penthouse in the CG-4 zone shall be twenty feet (20 ft.), and the maximum number of stories within the penthouse shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

504.6 The maximum permitted lot occupancy for residential use in the CG-4 zone shall be seventy-five percent (75%), or one hundred percent (100%) if permitted by the Inclusionary Zoning regulations set forth in Subtitle C, Chapter 10.

504.7 The front setbacks for the CG-4 zone are as follows:

(a) The setback along M Street shall be measured from the face of the adjacent curb along M Street to the building or structure; and

(b) The front setback from South Capitol Street, S.E. and S.W. shall be provided for the entire height and frontage for each new building or structure.

504.8 The required rear yard shall be measured as follows:

(a) Measure a horizontal plane twenty-five feet (25 ft.) above the mean elevation of the rear lot-line, parallel to the rear lot line, into the lot, the distance of the required minimum yard identified in the development standards table; and

(b) From the furthest point from the rear lot-line along the horizontal plane identified in the previous paragraph, measure a vertical plane up to the

maximum height limit of the zone. This vertical plane will form the rear yard.

504.9 No side yard is required for the principal building; however, any side yard provided on any portion of the principal building shall be at least two inches (2 in.) per one foot (1 ft.) of height, and no less than five feet (5 ft.).

504.10 Where an open court is provided, the court shall have the following minimum dimensions:

TABLE K § 504.8: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential (except hotel):	4 in./ft. of height of court; 10 ft. minimum.	4 in./ft. of height of court; 15 ft. minimum.	Twice the square of the required width of court dimension; 350 sq. ft. minimum.
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum.	2.5 in./ft. of height of court; 12 ft. minimum.	Twice the square of the required width of court dimension; 250 sq. ft. minimum.

504.11 In the case of an alteration affecting the amount of light and ventilation required in an existing building in an R, RF, or RA zone by other municipal law or regulation, no legally required window shall be permitted to open onto a court that does not comply with the dimensions given in Subtitle K § 504.7.

504.12 The minimum required GAR for the CG-4 zone shall be 0.2.

504.13 Within the CG-4 zone, a plaza comprising eight percent (8%) of the lot area shall be provided for development on a lot of greater than ten thousand square feet (10,000 sq. ft.), in accordance with the provisions of Subtitle C, Chapter 17. Where preferred use space is required under this chapter and provided, the requirement to provide plaza space shall not apply.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

505 DEVELOPMENT STANDARDS (CG-5)

505.1 The CG-5 zone is intended to permit medium-density mixed-use development generally in the vicinity of the waterfront; encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural and hotel uses; provide for a reduced height and bulk of buildings along the Anacostia River in the interest of ensuring views over and around waterfront buildings; and provide for continuous public open space along the waterfront with frequent public access points.

505.2 The development standards in Subtitle K §§ 505.3 through 505.9 shall control the bulk of buildings in CG-5 zone.

505.3 The permitted density in the CG-5 zone is as follows:

(a) The maximum permitted FAR in the CG-5 zone shall be 4.0 or 4.8 FAR with IZ, with a maximum non-residential FAR of 2.0;

(b) Non-residential floor area shall be the total gross floor area of the building not dedicated to uses in one (1) of the following categories:

(1) Residential;

(2) Emergency shelter;

(3) Lodging uses; or

(4) Education uses that are operated or chartered by the District Government;

(c) The Zoning Commission may grant bonus density for residential development in a building or a combined lot development, using a guideline of 1.0 FAR in excess of the normally-allowed maximum of 4.0 FAR, provided that:

(1) The building or combined lot development shall include at least 2.0 FAR of residential uses;

(2) The Zoning Commission, at its discretion, may allow construction of such bonus density on the property zoned CG-5 or may allow only for the bonus density to be transferred off-site to a lot or lots zoned CG-4; and

(3) The provisions of Subtitle K § 511 shall govern the procedures for transferring bonus density off-site if permitted by the Zoning Commission;

(d) The Zoning Commission, at its discretion, may also provide for additional on-site or off-site bonus density to be earned for setbacks required under this section, based on the land area of the setback and the proposed features for public open space uses; provided, that 2.0 FAR based on the land area of the open space setback shall be used as a general guideline; and

(e) A building or structure for a local government or parks and recreation use shall have a maximum permitted FAR of 1.8.

505.4 Height requirements for the CG-5 zone are as follows:

(a) The maximum permitted building height, not including the penthouse, in the CG-5 zone shall be sixty feet (60 ft.) and eighty feet (80 ft.) with IZ;

(b) Subtitle K § 510 contains design-related conditions on building height and upper story setbacks for segments of Potomac Avenue, and South Capitol Street, Designated Streets of Subtitle K § 508;

(c) The Zoning Commission, at its discretion, may grant an additional ten feet (10 ft.) of building height in excess of the base amount to accommodate the bonus density provision of Subtitle K § 505.3; and

(d) A building or structure located on, in or over the water; or a watercraft, including a floating home shall have a maximum height of twenty-five feet (25 ft.). For the purposes of this subsection, the maximum height shall be measured from the mean high water level along the shore directly in front of the building, structure or watercraft to the highest point of the building or structure, not including sailboat masts.

505.5 The maximum permitted height of a penthouse in the CG-5 zone shall be twelve feet (12 ft.), except that a height of fifteen feet (15 ft.) shall be permitted for penthouse mechanical space; and the maximum number of stories within the penthouse shall be one (1), except that a second story for penthouse mechanical space shall be permitted.

505.6 No side yard is required for the principal building; however, any side yard provided on any portion of the principal building shall be at least two inches (2 in.) per one foot (1 ft.) of height, and no less than five feet (5 ft.).

505.7 A minimum rear yard of twelve feet (12 ft.) shall be provided in the CG-5 zone.

505.8 The waterfront setback in the CG-5 zone is as follows:

(a) The waterfront setback shall be provided in accordance with Subtitle C, Chapter 11 for all buildings and structures constructed after January 7, 2005 on any lot that faces or abuts the Anacostia River;

(b) If the Zoning Commission finds that the setback creates an undue economic hardship for the owner of the lot, the Zoning Commission may reduce the depth of the required setback, but shall in no case approve a setback of less than fifty feet (50 ft.) in depth; and

(c) No private driveway to any parking or loading berth areas in or adjacent to a building or structure constructed after January 7, 2005 shall directly face the waterfront.

505.9 Where an open court is provided, the court shall have the following minimum dimensions:

TABLE K § 505.9: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential (except hotel):	4 in./ft. of height of court; 10 ft. minimum.	4 in./ft. of height of court; 15 ft. minimum.	Twice the square of the required width of court dimension; 350 sq. ft. minimum.
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum.	2.5 in./ft. of height of court; 15 ft. minimum.	Twice the square of the required width of court dimension; 250 sq. ft. minimum.

505.10 In the case of an alteration affecting the amount of light and ventilation required in an existing building in an R, RF, or RA zone by other municipal law or regulation, no legally required window shall be permitted to open onto a court that does not comply with the dimensions given in Subtitle K § 505.8.

505.11 The minimum required GAR for the CG-5 zone shall be 0.3.

506 DEVELOPMENT STANDARDS (CG-6 AND CG-7)

506.1 The CG-6 and CG-7 zones are mapped only on lands occupied by the Fort McNair Naval Facility.

506.2 Development standards for the CG-6 and CG-7 zones are as follows:

(a) The development standards for the CG-6 zone shall be as established for the MU-12 zone, Subtitle G, Chapter 5; and

(b) The development standards for the CG-7 zone shall be as established for the MU-14 zone, Subtitle G, Chapter 5.

507 USE PERMISSIONS (CG)

507.1 The use permissions in this section include uses permitted as a matter of right, as a special exception, and as an accessory use; and uses not permitted.

507.2 Use permissions for the CG-1 through CG-7 zones are as specified in the following table:

TABLE K § 507.2: CG-1 THROUGH CG-7 USE PERMISSIONS

Zone	Subtitle/Chapter	Use Group
CG-1	Subtitle U, Chapter 4	RA
CG-2	Subtitle U, Chapter 5	MU-Use Group E
CG-3	Subtitle U, Chapter 5	MU-Use Group F
CG-4	Subtitle U, Chapter 5	MU-Use Group G
CG-5	Subtitle U, Chapter 5	MU-Use Group C

Zone	Subtitle/Chapter	Use Group
CG-6	Subtitle U, Chapter 5	MU-Use Group C
CG-7	Subtitle U, Chapter 5	MU-Use Group C

507.3 Buildings, structures and uses with frontage on the designated streets of Subtitle K § 508 shall provide specified ground floor uses in accordance with the requirements and provisions of Subtitle K § 509.

507.4 A commercial or industrial use that is first permitted in Subtitle U, Chapter 8 (PDR Uses) and that was in existence with a valid Certificate of Occupancy as of January 7, 2005 shall be deemed a conforming use, but shall not be entitled to expand.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

508 DESIGNATED STREETS (CG)

508.1 Designated street segments are those segments and side of street rights-of-way where a building with frontage on that street segment must comply with use and/or design regulations that may differ from the requirements of the zone through which the segment passes.

508.2 Refer to Subtitle K § 509 for preferred use requirements that apply to specified designated streets.

508.3 Refer to Subtitle K § 510 for design related requirements that apply to specified designated streets.

508.4 If a lot faces more than one (1) designated street segment or designated area, the regulations governing each category apply.

508.5 Designated Street Segments include any portion of the following streets zoned CG-1 through CG-5:

(a) M Street, S.E. or S.W. (south side of street);

(b) South Capitol Street (both sides of street, south of M Street and West side of street north of M Street);

(c) Half Street, S.E. (both sides of street);

(d) First Street, S.E. (west side of street);

(e) Potomac Avenue, S.E. or S.W. (both sides of street); or

(f) P Street, S.W. (both sides of street).

509 USE REQUIREMENTS FOR DESIGNATED STREETS (CG)

509.1 Preferred use requirements shall apply only to the following designated streets:

(a) M Street, S.E. or S.W.;

(b) Half Street, S.E.; and

(c) First Street, S.W.

509.2 Preferred uses of this section shall include uses within the following use categories:

(a) Animal sales, care, and boarding;

(b) Arts, design, and creation;

(c) Eating and drinking establishments;

(d) Entertainment, assembly, and performing arts;

(e) Retail; and

(f) Service, general or financial.

509.3 Any new building or structure with frontage on the streets identified in Subtitle K § 509.1 shall:

(a) Devote not less than 0.5 FAR of the ground floor gross floor area to one (1) or more of the designated use categories;

(b) Devote no more than twenty-five percent (25%) of the ground floor gross floor area retail requirement to service, general or financial uses;

(c) Devote one hundred percent (100%) of the building's street frontage along the designated street to required uses except for space devoted to building entrances or required for fire control; and

(d) For good cause shown, the Zoning Commission may authorize interim occupancy of the preferred use space required by this subsection by a non-preferred use for up to five (5) years; provided that:

(1) The ground floor space is suitably designed for future occupancy by the preferred use space; and

(2) The ground floor area is designed to fully meet the applicable design regulations of Subtitle K § 510.

510 DESIGN REQUIREMENTS FOR DESIGNATED STREETS (CG)

510.1 The following design requirements shall apply to the portion of a building or structure with frontage on designated streets as noted:

(a) M Street, S.E. or S.W.:

(1) The streetwall of each new building shall be set back for its entire height and frontage along M Street not less than fifteen feet (15 ft.), measured from the face of the adjacent curb along M Street, S.E.;

(2) The ground floor shall have a minimum clear floor-to-ceiling height of fourteen feet (14 ft.), for a continuous depth of at least thirty-six feet (36 ft.) from the building line on the primary street;

(3) The ground story shall devote at least fifty percent (50%) of the surface area of to display windows or pedestrian entrances having clear low-emissivity glass, and ensure that the view through the display windows and pedestrian entrances is not blocked for at least ten feet (10 ft.) from the building line;

(4) Ground floor pedestrian entrances, or areas where a future ground floor entrance could be installed without structural changes, shall be located no more than an average distance of forty feet (40 ft.) apart on the façade facing the primary street. In no case shall there be fewer than one (1) door; and

(5) No vehicular garage or loading entrance or exit shall be permitted to a building or structure constructed after February 16, 2007, unless otherwise required by the District Department of Transportation, or permitted by the Board of Zoning Adjustment as a special exception evaluated according to Subtitle X, Chapter 9;

(b) South Capitol Street:

(1) Each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than fifteen feet (15 ft.), with the exception of a:

(A) Buildings within Squares 649 and 651; and

(B) Replacement of an existing row dwelling; or

(C) Vertical addition to an existing row dwelling, not extending out into the South Capitol Street right-of-way and not

exceeding fifty percent (50%) of the gross floor area of the original row dwelling;

(2) A minimum of sixty percent (60%) of the street-wall shall be constructed on the setback line, with the exception of:

(A) Buildings within Squares 649 and 651 where a minimum of sixty percent (60%) of the street-wall shall be constructed to the South Capitol Street property line; and

(B) Replacement of or an addition to an existing row dwelling within Squares 653 or 655;

(3) Any portion of a building or structure that exceeds one hundred and ten feet (110 ft.) in height shall provide a one-to-one (1:1) step-back from the building line along South Capitol Street; and

(4) No vehicular garage or loading entrance or exit shall be permitted to a building or structure constructed after February 16, 2007, unless otherwise required by the District Department of Transportation (DDOT), or permitted by the Board of Zoning Adjustment as a special exception evaluated according to Subtitle X, Chapter 9.

(c) Half Street, S.E.:

(1) Any portion of a building or structure that exceeds sixty-five feet (65 ft.) in height shall provide a minimum step-back of twenty feet (20 ft.) in depth from the building line along Half Street SE; provided that the Zoning Commission may grant relief pursuant to Subtitle X from this requirement, to a maximum of fifteen feet (15 ft.) in height and eight feet (8 ft.) in depth, for the provision of reasonable building footprints;

(2) The ground floor shall have a minimum clear floor-to-ceiling height of fourteen feet (14 ft.), for a continuous depth of at least thirty-six feet (36 ft.) from the building line on the primary street;

(3) The ground story shall devote at least fifty percent (50%) of the surface area to display windows or pedestrian entrances having clear low-emissivity glass, and ensure that the view through the display windows and pedestrian entrances is not blocked for at least ten feet (10 ft.) from the building line;

(4) Ground floor pedestrian entrances, or areas where a future ground floor entrance could be installed without structural changes, shall be located no more than an average distance of forty feet (40 ft.)

apart on the façade facing the primary street. In no case shall there be fewer than one (1) door; and

(5) No vehicular garage or loading entrance or exit shall be permitted to a building or structure constructed after February 16, 2007, unless otherwise required by the District Department of Transportation, or permitted by the Board of Zoning Adjustment as a special exception evaluated according to Subtitle X, Chapter 9;

(d) First Street, S.E.:

(1) The ground floor shall have a minimum clear floor-to-ceiling height of fourteen feet (14 ft.), for a continuous depth of at least thirty-six feet (36 ft.) from the building line on the primary street;

(2) The ground story shall devote at least fifty percent (50%) of the surface area to display windows or pedestrian entrances having clear low-emissivity glass, and ensure that the view through the display windows and pedestrian entrances is not blocked for at least ten feet (10 ft.) from the building line; and

(3) Ground floor pedestrian entrances, or areas where a future ground floor entrance could be installed without structural changes, shall be located no more than an average distance of forty feet (40 ft.) apart on the façade facing the primary street. In no case shall there be fewer than one (1) door;

(e) Potomac Avenue, S.E. or S.W. – Any portion of a building or structure that exceeds one hundred and ten feet (110 ft.) in height shall provide a one-to-one (1:1) step-back from the building line along Potomac Avenue; and

(f) P Street SW – No vehicular garage or loading entrance or exit shall be permitted from P Street, S.W. to a building or structure constructed after February 16, 2007, unless otherwise required by the District Department of Transportation, or permitted by the Board of Zoning Adjustment as a special exception evaluated according to Subtitle X, Chapter 9.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

511 CERTIFICATION OF COMBINED LOT DEVELOPMENTS

511.1 No allocation of gross floor area shall be effective unless an instrument, legally sufficient to effect such a transfer, is filed with the Zoning Administrator and recorded by the Recorder of Deeds in the land records against all lots included in the combined lot development.

511.2 The instrument shall be in the form of a declaration of covenants that:

(a) Is signed by the owners of all affected lots;

(b) Runs with the land in perpetuity;

(c) Burdens all lots involved in the allocation of gross floor area;

(d) Binds the present and future owners of the lot sending nonresidential gross floor area to forgo the nonresidential development and occupation of an on-site area equal to the amount of gross floor area of nonresidential uses transferred; and

(e) States the maximum permitted gross floor areas for all uses in all lots, the maximum allowed gross floor area for nonresidential uses in all lots, and the gross floor area of nonresidential uses allocated. The covenant shall further state that, after the transfer, the combined lots conform with the maximum gross floor area limitations for nonresidential uses on the lots before the transfer.

511.3 The declaration of covenants shall expressly state that it may be substantively amended or terminated only with the approval of the Zoning Commission, after public hearing, and only upon a finding that the proposed amendment or termination is fully justified and consistent with the purposes of this chapter.

511.4 The declaration of covenants shall be approved in content by the Zoning Administrator and certified for legal sufficiency by the Office of the Attorney General. The declaration shall also contain a written statement by the Director of the Office of Planning attesting to:

(a) The lots' eligibility to allocate residential and nonresidential uses;

(b) The accuracy of the computations with respect to the amount of residential and nonresidential uses allocated; and

(c) Whether, after the transfer, the combined lots will conform with the maximum gross floor area limitations on nonresidential uses for the lots before any such transfer.

512 ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES, AND USES (CG)

512.1 The provisions of this section apply to properties:

(a) Within the CG-5 zone;

(b) Abutting M Street, S.E.;

(c) Located within Squares 700 or 701;

(d) Abutting South Capitol Street, other than renovation or replacement of an existing row dwelling within Squares 653 or 655; or for a minor addition not exceeding fifty percent (50%) of the gross floor area of the original row dwelling structure;

(e) Within Squares 601, 656, or 657; or

(f) Which are the recipient of density through the combined lot provisions of Subtitle K § 505.3(d).

512.2 With respect to those properties described in Subtitle K § 512.1, all proposed uses, buildings, and structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior design, shall be subject to review and approval by the Zoning Commission in accordance with the following provisions.

512.3 In addition to proving that the proposed use, building, or structure meets the standards set forth in Subtitle X and the relevant provisions of this chapter, an applicant requesting approval under this section shall prove that the proposed building or structure, including the sitting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will:

(a) Help achieve the objectives of the Capital Gateway defined in Subtitle K § 500.1,

(b) Help achieve the desired use mix, with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail, or service uses;

(c) Be in context with the surrounding neighborhood and street patterns;

(d) Minimize conflict between vehicles and pedestrians;

(e) Minimize unarticulated blank walls adjacent to public spaces through facade articulation; and

(f) Minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards.

512.4 With respect to a building or structure to be constructed on a lot within the CG-5 District:

(a) The building or structure shall provide suitably designed public open space along the waterfront;

(b) A plan shall be included in the application for suitable open space treatment of the setback area for such uses as walkway and bikeway,

passive or active recreational use, and including provisions assuring private maintenance of the space, convenient and permanent public access to the space, and suitable connections to adjacent public space along the waterfront; and

(c) The application shall include a view analysis that assesses openness of waterfront views and vistas, and views and vistas toward the Capitol Dome, other federal monumental buildings, existing neighborhoods, South Capitol Street, and the Frederick Douglass Bridge.

512.5 With respect to a building or structure which has frontage on Half Street, S.E.:

(a) The building or structure shall provide for safe and active streetscapes through building articulation, landscaping, and the provision of active ground level uses including retail, entertainment, cultural, and pedestrian concourse space;

(b) The building or structure shall provide for safe and convenient movement to and through the site, including to public transit, the Ballpark, and to the Anacostia River; and

(c) The application shall include a view analysis that assesses openness of views and vistas around, including views toward the Capitol Dome, other federal monumental buildings, the Ballpark, and the waterfront.

512.6 With respect to a building or structure that has frontage on South Capitol Street, S.E.:

(a) The building or structure shall incorporate massing, materials, and buildings and streetscape landscaping to further the design and development of properties in a manner that is sensitive to the establishment of South Capitol Street as a monumental civic boulevard;

(b) The building or structure shall incorporate massing, location of access to parking and loading, and location of service areas to recognize the proximate residential neighborhood use and context, as applicable; and

(c) The application shall include a view analysis that assesses openness of views and vistas around, including views toward the Capitol Dome, other federal monumental buildings, the Ballpark, and the waterfront.

512.7 The Zoning Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property. Such requests shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

512.8 At the time of filing an application with the Zoning Commission, the applicant shall pay the filing fee specified in Subtitle Z, plus such fees as apply to any additional zoning relief requested.

513 PARKING AND LOADING REGULATIONS (CG)

513.1 This chapter provides conditions and requirements related to parking spaces, including location and access.

513.2 The parking requirements for the CG zones are as follows:

(a) There is no minimum number of vehicular parking space requirement for any use located within a CG zone on any property with frontage on or located east of South Capitol Street; except as required in Subtitle K § 515.1(e) for the ballpark;

(b) Bicycle parking in accordance with the requirements of Subtitle C, Chapter 8 shall be provided; and

(c) All parking shall be sited and designed to conform to the requirements of Subtitle C, Chapters 7 and 8; except parking located on a property which front or abuts the Anacostia River shall also conform to the requirements of Subtitle C, Chapter 11.

514 PLANNED UNIT DEVELOPMENTS (CG)

514.1 A planned unit development (PUD) in the CG zones shall be subject to the following provisions in addition to the provisions of Subtitle X, Chapter 3:

(a) The PUD shall be granted only for projects that are superior in achieving the purposes of this chapter and, particularly, the adopted objectives and policies of the Lower Anacostia Waterfront/Near Southwest Area Elements of the Comprehensive Plan;

(b) The PUD process shall not be used to reduce requirements in this chapter for the preferred uses; and

(c) An applicant for a PUD within the CG-4 zone seeking non-residential density greater than the non-residential density permitted in this chapter shall demonstrate to the Zoning Commission that combined lot density pursuant to Subtitle K § 504.3(d) has been acquired to the maximum extent feasible prior to the PUD application.

515 BALLPARK DISTRICT (CG)

515.1 The sub-area use regulations are as follows:

(a) A Ballpark may be constructed and operated within Squares 702, 703, 704, 705, and 706 and Reservation 247 (the "Ballpark Site"), bounded by N Street, S.E., First Street, S.E., Potomac Avenue, S.E., and South Capitol, Street S.E.;

(b) For the purposes of this section, the term "Ballpark" means a stadium or arena, including accessory buildings or structures (including, but not limited to office and transportation facilities) that has as its primary purpose the hosting of professional athletic team events;

(c) The Ballpark may also be used to host events customarily held in such facilities including, but not limited to performances, amateur sporting events, municipal functions, and public or private ceremonies.;

(d) Notwithstanding other provisions for residential or mixed uses in this chapter, no portion of the density need be used for residential purposes within the Ballpark Site;

(e) A maximum of one thousand two hundred twenty-five (1,225) vehicular parking spaces shall be provided for the Ballpark use within the Ballpark Site, in addition to bus parking requirements of Subtitle K § 515.3(d). Of this number, a minimum of one hundred twenty-five (125) shall be designated handicapped parking spaces. Any parking spaces in addition to the one thousand two hundred twenty-five (1,225) amount shall be permitted if approved by the Zoning Commission pursuant to Subtitle K § 515.4 subject to the applicant demonstrating:

(1) That the parking spaces are needed to satisfy parking demand generated by the Ballpark not met by existing or approved but not yet constructed parking facilities; and

(2) Compliance with the provisions of Subtitle K § 515.4;

(f) In considering whether to approve additional ballpark-related at or above-ground parking spaces under Subtitle K § 515.1(e), the Zoning Commission shall judge, balance, and reconcile the need for additional on-site parking against any adverse impacts the presence of the parking will have on traffic, and the aesthetics and development of the surrounding neighborhood; and

(g) All parking spaces within the Ballpark Site shall be provided underground. At or above grade parking spaces shall be permitted if approved by the Zoning Commission pursuant to Subtitle K § 515.4; subject to the applicant demonstrating:

(1) Practical difficulty with the provision of underground parking; and

(2) Compliance with the provisions of Subtitle K § 515.4.

515.2 The prefered use regulations are as follows:

(a) Preferred uses of this section shall include one (1) or more of the following use categories:

(1) Retail;

(2) Entertainment, assembly, and performing arts;

(3) Eating and drinking establishments;

(4) Animal sales, care, and boarding;

(5) Arts, design, and creation; and

(6) Services, general or financial;

(b) Not less than twenty percent (20%) of the Ballpark building's exterior perimeter frontage, not including any detached accessory building, shall be devoted to preferred uses of Subtitle K § 515.2(a) in accordance with the provisions of the following provisions:

(1) Preferred uses shall have a street orientation;

(2) Preferred uses shall provide direct exterior access at ground level;

(3) Not less than fifty percent (50%) of area devoted to preferred uses shall be devoted to display windows having clear or low-emissivity;

(4) The minimum floor to ceiling height of area devoted to preferred uses shall be fourteen feet (14 ft.) clear; and

(5) The average depth from the exterior facade in towards the center of the building for space devoted to preferred retail shall be fifty feet (50 ft.) minimum; and

(c) The Zoning Commission may grant relief to a maximum of fifty percent (50%) of the amount of space required by Subtitle K § 515.2(b) if necessary for the economic viability of the Ballpark and if consistent with the purposes of the Capital Gateway zones as stated in Subtitle K § 500.1 and the provisions of Subtitle K § 524.4.

515.3 The design regulations are as follows:

(a) The Ballpark's maximum permitted height shall be that permitted by the Height Act, as amended. For the purposes of determining height for a Ballpark, height shall mean the vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest

point of the building, including a scoreboard, roof, cantilevered sunscreen, or parapet;

(b) Each building or structure located on the portion of South Capitol Street that lies within the Ballpark Site shall be set back for its entire height and frontage not less than fifteen feet (15 ft.), provided that a minimum of sixty percent (60%) of the street-wall shall be constructed on the setback line;

(c) In addition to the streetwall setbacks of Subtitle K § 515.3(b), any portion of the Ballpark that exceeds one hundred ten feet (110 ft.) in height shall provide an additional one-to-one (1:1) step back from the building line along South Capitol Street;

(d) Any on-site bus parking shall be located internal to a building, with doors and entranceways designed to complement the building facade, and shall permit safe and convenient vehicular and pedestrian movement. The Zoning Commission may grant relief from this requirement pursuant to Subtitle K § 515.4 if necessary to the economic viability of the Ballpark and if consistent with the purposes of the Capital Gateway as stated in Subtitle K § 500.1 and the provisions of Subtitle K § 515.4;

(e) Loading platforms and berths for the Ballpark shall be located internal to a building, with doors and entranceways designed to complement the building facade, and shall permit safe and convenient vehicular and pedestrian movement;

(f) A minimum of one (1) pedestrian entrance gate to the Ballpark shall be provided on each street frontage; and

(g) No private driveway may be constructed or used from South Capitol Street to any parking or loading berth areas in or adjacent to a building or structure constructed after November 4, 2005.

515.4 The Ballpark and all other proposed buildings or structures within the Ballpark Site shall be subject to the approval of the Zoning Commission in accordance with the following provisions:

(a) An applicant requesting approval under this section shall prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize potential impacts to the neighborhood and the United States Capitol by:

(1) Minimizing associated noise, particularly into adjacent residential neighborhoods;

(2) Minimizing light spill, particularly into adjacent residential neighborhoods;

(3) Minimizing parking and traffic conflict between Ballpark patrons and neighborhood residents;

(4) Encouraging the use of bicycles through the provision of safe, secure and convenient bike storage, as well as other forms of alternative transportation to the site;

(5) Minimizing conflict between vehicles and pedestrians;

(6) Encouraging the design and development of properties in a manner that is sensitive to the establishment of South Capitol Street as a monumental civic boulevard, while recognizing the proximate residential neighborhood use and context;

(7) Being in context with the surrounding neighborhood and street patterns;

(8) Providing view analysis which assesses openness of views and vistas around the Ballpark, including views toward the Capitol Dome, other federal monumental buildings, and the waterfront, from the surrounding neighborhood and neighborhoods east of the Anacostia River, South Capitol Street, the Frederick Douglas Bridge, and the waterfront;

(9) Providing for safe and convenient movement to and through the site, including to public transit and to the Anacostia River; and

(10) Ensuring that signage on the exterior of building or internal to the ballpark structure but visible from the outside, including the scoreboard, will not have such intensity or brilliance as to cause glare or impair the vision of any driver, or otherwise interfere with the driver's operation of a motor vehicle; adversely impact an owner's enjoyment of residential property located proximate to the ballpark; or impact the character and integrity of the ballpark site;

(b) In addition to the required provisions of Subtitle K § 515.4(a), an applicant requesting approval under this section shall also demonstrate that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation will:

(1) Help achieve the objectives of the Capital Gateway as set forth in Subtitle K § 500.1;

(2) Be of a superior quality;

(3) Encourage safe and active streetscapes through building articulation, landscaping, and the provision of active ground level

uses including retail, entertainment, cultural, and pedestrian concourse space;

(4) Minimize unarticulated blank walls adjacent to public spaces through facade articulation; and

(5) Promote the use of best practice environmental design, including minimizing potential impacts on the Anacostia River through stormwater management and recycling practices;

(c) The Zoning Commission may impose requirements pertaining to building or structure design, appearance, landscaping, signage, lighting, and other such requirements, as it deems necessary to protect neighboring property and to achieve the purposes of the Capitol Gateway zones;

(d) The Zoning Commission may hear and decide any additional requests for relief from Zoning Regulations for the subject site. Such requests may be advertised, heard, and decided together with the application for Zoning Commission review and approval;

(e) At the time of filing an application with the Zoning Commission, the applicant shall pay the filing fee specified in Subtitle Z plus such fees as apply to any additional zoning relief requested; and

(f) At any time after the application is filed, but no later than thirty (30) days prior to the hearing date, at the request of one (1) or more Zoning Commission member(s), the Zoning Commission may, at a regular or special public meeting, offer preliminary comment on the design presented. Written notice of the Zoning Commission's intent to offer preliminary comment shall be provided to the Applicant, the ANC within which the project is located, and the Office of Planning. The Office Planning may participate at the meeting only through responding to the Zoning Commission's questions and offering solutions to any concerns expressed.

CHAPTER 6 SAINT ELIZABETHS EAST CAMPUS ZONES – STE-1 THROUGH STE-19

600 GENERAL PROVISIONS (STE)

600.1 The Saint Elizabeths East Campus (StE) zones (StE-1 through StE-19) are unique location zones created to implement the public policy goal and objectives of the Comprehensive Plan, St. Elizabeths Redevelopment Framework Plan, as approved by the Council of the District of Columbia on December 16, 2008, and the Saint Elizabeths East Master Plan and Design Guidelines, June 4, 2012.

600.2 The StE zones shall constitute the Zoning Regulations for the geographic area referred to in Subtitle W § 115. Where there are conflicts between this chapter and other chapters of this title, the provisions of the StE zones shall govern.

600.3 The purposes of the StE zones are to:

(a) Provide for the development of the site with a mix of uses, achieved through the adaptive reuse of existing buildings as well as new construction;

(b) Provide for a broad mix of uses, including residential, commercial, hospitality, educational, and civic uses consistent with the master plan, with a target of approximately four million two hundred thousand square feet (4,200,000 sq. ft.) of development, exclusive of the StE-2, StE-18, and StE-19 zones and specified above-grade parking;

(c) Improve community connectivity and access to and through the campus;

(d) Enhance the unique and historic identity of the campus;

(e) Reinvigorate the campus as an important neighborhood center;

(f) Preserve and adaptively reuse the historic resources;

(g) Embody the District's design and sustainability goals;

(h) Create a safe public realm and enhanced pedestrian experience;

(i) Enhance multi-modal transportation networks;

(j) Support wider economic development initiatives; and

(k) Ensure a parking supply that meets the needs of the St. Elizabeths site while minimizing impacts on surrounding neighborhoods and incurring acceptable impacts on the surrounding road network.

600.4 The land use and design principles are as follows:

(a) Create a safe environment by providing for a mix of uses and open spaces that are capable of being programmed to ensure vitality and social activity;

(b) Create a desirable development opportunity by providing for flexibility in uses and appropriate building heights and densities;

(c) Provide street-activating uses such as retail on the ground floor of buildings along designated public streets;

(d) Recognize the unique and historic characteristics of the site and provide for the appropriate reuse of the historic buildings and new development that will respect the site's historic nature;

(e) Design and site new development sensitively to preserve existing gateways, vistas, and campus landmarks;

(f) Create focal points to help establish a unique sense of place and orientation;

(g) Provide for significant open space, including community parks, plazas, and natural open space on the site;

(h) Provide for significant open space, including community parks, plazas, and natural open space on the site; and

(i) Promote the use of best practice environmental and stormwater management design.

601 DEVELOPMENT STANDARDS (STE)

601.1 The development standards in Subtitle K §§ 602 through 610 shall control the bulk of buildings in the StE zones.

601.2 The StE zones are divided into the StE-1 through StE-19 zones for the purpose of floor area ratio (FAR), lot occupancy, and building height.

601.3 Except as provided in this chapter, the density, height of a building or structure, not including the penthouse, lot occupancy, and rear yard in a StE zone shall not exceed or be less than that set forth in Subtitle K § 602.

601.4 In addition to the development standards set forth in this subtitle, additional general regulations relevant to this Subtitle can be found in Subtitle C.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

602 DENSITY – FLOOR AREA RATIO (FAR) (STE)

602.1 The maximum permitted FAR of buildings in the StE zones shall be given in the following table:

TABLE K § 602.1: MAXIMUM PERMITTED FAR

Zone District	FAR (Max.)	FAR – Required Residential (Min.)	FAR – Above Grade Parking (Max.)
StE-1	0.20	-	-
StE-2	4.00	-	-
StE-3	2.50	-	-
StE-4	0.50	-	-
StE-5	1.50	-	-
StE-6	3.20	1.60	-
StE-7	1.50	1.00	Subtitle K § 602.2
StE-8	0.40	-	-
StE-9	1.50	-	-
StE-10	1.50	-	-
StE-11	0.70	-	-
StE-12	3.00	1.50	-
StE-13	3.20	1.60	-
StE-14A	1.50		-
StE-14B	1.50	1.00	-
StE-15	2.00	1.00	Subtitle K § 602.2
StE-16	3.20	1.60	-
StE-17	0.50	-	Subtitle K § 602.2
StE-18	4.00	-	-
StE-19	0.00	-	-

602.2 Density for structured parking located above grade is regulated as follows:

(a) In addition to the density permitted by Subtitle K § 602.1, additional density for above grade parking is permitted as follows:

(1) Within the StE-7 zone – 1.0 FAR;

(2) Within the StE-15 zone – 1.0 FAR; and

(3) Within the StE-17 zone – 2.0 FAR;

(b) Any of the density permitted under Subtitle K § 602.2(a) that is not used for above grade parking may be utilized for any other use permitted within that zone;

(c) Any above grade parking shall conform to the standards of Subtitle K § 610; and

(d) This density may not be transferred through the combined lot provisions of Subtitle K § 608 to another parcel.

602.3 The minimum lot area for row dwellings in any StE zone shall be one thousand eight hundred square feet (1,800 sq. ft.) with a minimum lot width of eighteen feet (18 ft.).

602.4 Except for lots located in the StE-2, StE-10, StE-14a, StE-14b, StE-18, or StE-19 subdistrict, two (2) or more lots in one (1) or more StE subdistrict(s) may be combined for the purpose of achieving the minimum required FAR equivalent of residential uses, subject to the following:

(a) The total height and density limits of the zone(s) shall not be exceeded; The lots may be located in the same StE subdistrict or in different StE subdistricts;

(b) The lot(s) receiving residential gross floor area need not be located in a StE subdistrict with a residential requirement; and

(c) The total height and density limits of the subdistricts shall not be exceeded.

602.5 No allocation of gross floor area shall be effective unless an instrument, legally sufficient to effect such a transfer, is filed with the Zoning Administrator and recorded by the Recorder of Deeds in the land records against all lots included in the combined lot development.

602.6 The instrument shall be in the form of a declaration of covenants that:

(a) Is signed by the owners of all affected parcels;

(b) Runs with the land in perpetuity;

(c) Burdens all parcels involved in the allocation of gross floor area; and

(d) States the maximum permitted gross floor areas for all uses in all parcels, the maximum allowed gross floor area for nonresidential uses in all parcels and the gross floor area of nonresidential uses allocated. The covenant shall further state that, after the transfer, the combined lots conform with the maximum gross floor area limitations.

602.7 The declaration of covenants shall expressly state that it may be substantively amended or terminated only with the approval of the Zoning Administrator.

602.8 The declaration of covenants shall be approved in content by the Zoning Administrator and certified for legal sufficiency by the Office of the Attorney General. The declaration shall also contain a written statement by the Director of the Office of Planning attesting to:

(a) The lots' eligibility to allocate residential and nonresidential uses;

(b) The accuracy of the computations with respect to the amount of residential and nonresidential uses allocated; and

(c) Whether, after the transfer, the combined lots will conform with the maximum gross floor area limitations for the lots before any such transfer.

602.9 The height and density limits of Subtitle K § 603.1 shall serve as the maximums permitted under a planned unit development (PUD).

603 HEIGHT (STE)

603.1 The maximum permitted building height, not including the penthouse, as well as the maximum permitted penthouse height and number of stories, in the StE zones shall be given in the following table:

TABLE K § 603.1: MAXIMUM PERMITTED BUILDING HEIGHT, PENTHOUSE HEIGHT, AND PENTHOUSE STORIES

Zone District	Maximum Building Height (Feet.)	Maximum Penthouse Height	Maximum Penthouse Stories
StE-1	25	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
StE-2		12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
StE-3	80	20 ft.	1; Second story permitted for penthouse mechanical space
StE-4	25	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
StE-5	65	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
StE-6	90	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space
StE-7	Subtitle K § 603.2	Subtitle K § 603.2	Subtitle K § 603.2
StE-8	25	12 ft. except 15 ft. for penthouse	1; Second story permitted for penthouse

Zone District	Maximum Building Height (Feet.)	Maximum Penthouse Height	Maximum Penthouse Stories
		mechanical space	mechanical space
StE-9	65	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
StE-10	40	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
StE-11	25	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
StE-12	80	20 ft.	1; Second story permitted for penthouse mechanical space
StE-13	90	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space
StE-14 A & B	40	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
StE-15	80	20 ft.	1; Second story permitted for penthouse mechanical space
StE-16	90	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space
StE-17	70	20 ft.	1; Second story permitted for penthouse mechanical space
StE-18	90	20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space
StE-19	0	0	0

603.2 Maximum permitted building height and penthouse height within the StE-7 zone is as follows:

(a) For a distance of two-hundred fifty feet (250 ft.) measured from the north property line bounding Cypress Street, the maximum permitted building height, not including the penthouse, shall be eighty feet (80 ft.) and the maximum permitted height of the penthouse shall be twenty feet (20 ft.), and the maximum number of stories within the penthouse shall be one (1), except that a second story for penthouse mechanical space shall be permitted; and

(b) For the remainder of this parcel, the maximum permitted height shall be fifty feet (50 ft.); and the maximum permitted height of a penthouse in the CG-5 zone shall be twelve feet (12 ft.), except that a height of fifteen feet (15 ft.) shall be permitted for penthouse mechanical space; and the maximum number of stories within the penthouse shall be one (1), except that a second story for penthouse mechanical space shall be permitted.

604 LOT OCCUPANCY (STE)

604.1 The maximum permitted lot occupancy for the StE zones shall be given in the following table:

TABLE K § 604.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone District	Lot Occupancy (Max. %)
StE-1	25
StE-2	75
StE-3	60
StE-4	60
StE-5	60
StE-6	75
StE-7	60
StE-8	60
StE-9	60
StE-10	60
StE-11	60
StE-12	75
StE-13	75
StE-14A	60
StE-14B	60
StE-15	75
StE-16	75
StE-17	60
StE-18	75
StE-19	n/a

605 FRONT SETBACK (STE)

605.1 Buildings within the StE-17 and StE-18 zones shall be setback not less than ten feet (10 ft.) from the property line that abuts Alabama Avenue and 13th Street.

605.2 No part of a building within the StE-17 and StE-18 zones shall project above a plane drawn at a forty-five degree (45^0) angle from a line located fifty feet (50 ft.) directly above the property line that abuts Alabama Avenue.

606 REAR YARD (STE)

606.1 A minimum required rear yard of twenty feet (20 ft.) shall be provided in the StE-10, StE-14A, and StE-14B zones.

606.2 No part of a building within the StE-6, StE-13, and StE-16 zones shall project above plane drawn at a forty-five degree (45°) angle from a line located seventy-five feet (75 ft.) directly above the eastern property line that abuts the ravine.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

607 INCLUSIONARY ZONING (STE)

607.1 All residential development is subject to Inclusionary Zoning and shall be constructed according to the provisions set forth in Subtitle C, Chapter 10 except for Subtitle C § 1002.

607.2 The density, lot occupancy, and height maximums of Subtitle K §§ 602.1, 603.1, and 604.1 shall serve as the maximum permitted density for buildings and structures within each zone including for the provision of inclusionary units.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

608 PARKING (STE)

608.1 The cumulative total of all parking spaces, including below-grade, surface, and above-grade structured parking, shall not exceed a total of four thousand eight hundred (4,800) parking spaces, exclusive of parking on the StE-2 or StE-18 zone, existing surface parking lots, historic structures, and any parking associated with existing District of Columbia Government facilities.

608.2 Each application to the Department of Consumer and Regulatory Affairs for a development that includes above-grade or below-grade structured parking or surface parking shall provide an accounting of the total number of parking spaces within the StE zones which count towards the four thousand eight hundred (4,800) parking space limit.

608.3 Additional parking spaces beyond the four thousand eight hundred (4,800) space limit shall be permitted by special exception by the Board of Zoning Adjustment pursuant to Subtitle X, and provided that the applicant addresses compliance with the following standards:

(a) The application shall include a detailed accounting of the existing and proposed number and locations of parking spaces provided pursuant to Subtitle K § 610.1; and shall also include a traffic study assessing the impacts of the proposed additional parking spaces on local traffic patterns for referral to and comment by the District Department of Transportation;

(b) The applicant shall include a transportation demand management (TDM) plan, as well as District Department of Transportation analysis of the TDM plan. The parameters of the analysis shall be outlined by the District Department of Transportation; and

(c) Vehicular access and egress will be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions.

608.4 For any application pursuant to Subtitle K § 610.3:

(a) The Board of Zoning Adjustment shall judge, balance, and reconcile the need for additional on-site parking against any adverse impacts the presence of the parking will have on traffic, and the aesthetics and development of the surrounding neighborhood; and

(b) The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the StE zones.

608.5 Any additional commuter parking, beyond parking that may exist as of March 29, 2013, within the StE-18, shall be for the exclusive use of residents of, employees within, or visitors to the StE zones or federal employees of the adjacent Saint Elizabeths West Campus.

608.6 Parking spaces shared by more than one (1) use is permitted.

608.7 Parking spaces need not be located on the same lot as the building or buildings they are intended to serve, but must be located on a lot within the StE zones other than the StE-18 or StE-19 zone.

608.8 Parking spaces shall not be located between a street right-of-way line and the more restrictive of either a building façade or a line extending from and parallel to a building façade. A building used solely as a parking attendant shelter shall not trigger this restriction.

608.9 Parking spaces provided within a structure shall be located at least twenty feet (20 ft.) from all lot lines that abut public streets, unless the surface of the parking spaces is at least ten feet (10 ft.) below grade, at all points along the building frontage.

608.10 Parking spaces within an above-grade structure along 13th Street, Dogwood Street, and Sycamore Street shall be lined with preferred uses as defined in Subtitle K § 621 on the ground floor to a depth of thirty feet (30 ft.) minimum.

608.11 All parking spaces, other than ones within an automated parking garage, shall be accessible at all times from a driveway accessing either an improved street or an improved alley or alley system, with a minimum width of ten feet (10 ft.).

608.12 Parking spaces provided within an automated parking garage need not meet the accessibility requirement of Subtitle K § 610.10 as long as the mechanized parking system does.

608.13 Parking spaces and drive aisles shall be designed in accordance with the standards of Subtitle C, Chapter 7.

608.14 Where other options for access to parking spaces exist, such as from an alley or a different street, access to parking shall not be from a section of street where preferred uses are required in accordance with Subtitle K § 621; or from Martin Luther King Jr. Avenue, S.E., Dogwood Street, 13th Street, or Oak Drive.

608.15 Approval of a driveway under this chapter shall not be interpreted to imply permission for a curb cut in public space. An applicant for a driveway with a curb cut in public space shall have the responsibility to obtain all other necessary approvals and permissions.

609 LOADING (STE)

609.1 Loading requirements for each use shall be as prescribed in Subtitle C, Chapter 21.

609.2 Where other options for access to parking spaces exist, such as from an alley or a different street, access to loading shall not be from a section of street where preferred uses are required in accordance with Subtitle K § 621; or from Martin Luther King Jr. Avenue, S.E., Dogwood Street, 13th Street, or Oak Drive.

609.3 Loading entrances shall not be located closer than thirty-two feet (32 ft.) from the intersection of an alley other curb cut as measured from the intersection of the curb lines extended.

609.4 Loading entrances shall not be located closer than sixty feet (60 ft.) from the nearest intersection of a street as measured from the intersection of the curb lines extended.

609.5 Loading entrances shall make use of architectural treatments, to mitigate visual impacts,

609.6 Access points to requiring a curb cut shall be a sufficient distant from any street intersection so as not to disrupt traffic flow.

610 BICYCLE PARKING (STE)

610.1 The bicycle parking standards of this chapter apply to all newly constructed buildings.

610.2 Bicycle parking spaces shall be provided in accordance with the requirements and standards of Subtitle C, Chapter 8.

611 PENTHOUSES (STE)

611.1 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

612 USE PERMISSIONS (STE)

612.1 The following uses categories shall be permitted as a matter of right in all of the StE zones, except as limited in Subtitle K §§ 613 and 614, or if specifically prohibited by Subtitle K § 615:

(a) Agriculture, large and residential;

(b) Animal sales, care, and boarding;

(c) Antennas;

(d) Arts, design, and creation;

(e) Basic utilities;

(f) Chancery;

(g) Daytime care;

(h) Eating and drinking establishments;

(i) Education uses, including public and private schools, colleges and universities, and trade schools;

(j) Emergency shelter uses that house no more than four (4) persons, not including resident supervisors or staff and their families;

(k) Entertainment, assembly, and performing arts;

(l) Government, large scale and local;

(m) Health care;

(n) Institutional, general and religious;

(o) Lodging;

(p) Motor vehicle-related sales and services;

(q) Office;

(r) Parking;

(s) Parks and recreation;

(t) Production, distribution, and repair;

(u) Residential;

(v) Retail;

(w) Service, general and financial; and

(x) Transportation infrastructure.

613 USE LIMITATIONS (STE)

613.1 Within the StE-19 zone, no use is permitted except for open space and transportation infrastructure.

613.2 Uses permitted within the StE-10 and StE-14A zones shall be in accordance with the RF-1 use provisions of Subtitle E, Chapter 18, which includes, but is not limited to, rowhouses, flats, attached or detached dwellings, and other uses compatible with a low- to moderate-density residential zone.

614 USES PERMITTED BY SPECIAL EXCEPTION (STE)

614.1 The uses in this section shall be permitted in the StE zones as a special exception if approved by the Board of Zoning Adjustment pursuant to the general standards of Subtitle X, the criteria set forth in Subtitle K § 615.2, and subject to applicable conditions of each section as stated below:

(a) Emergency shelter for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the following conditions:

(1) There shall be no other property containing an emergency shelter for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the property;

(2) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

(3) The proposed shelter shall meet all applicable code and licensing requirements;

(4) The shelter shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area;

(5) The Board of Zoning Adjustment may approve more than one (1) shelter in a square or within five hundred feet (500 ft.) only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations; and

(6) The Board of Zoning Adjustment may approve a shelter for more than fifteen (15) persons, not including resident supervisors or staff and their families, only if the Board of Zoning Adjustment finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and there is no other reasonable alternative to meet the program needs of that area of the District of Columbia; and

(b) Community-based institutional facilities (CBIF) for seven (7) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the following conditions:

(1) There shall be no other property containing a CBIF for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the property;

(2) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

(3) The proposed CBIF shall meet all applicable code and licensing requirements;

(4) The shelter shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area;

(5) The Board of Zoning Adjustment may approve more than one (1) CBIF in a square or within five hundred feet (500 ft.) only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations; and

(6) The Board of Zoning Adjustment may approve a CBIF for more than fifteen (15) persons, not including resident supervisors or staff

and their families, only if the Board of Zoning Adjustment finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location, and there is no other reasonable alternative to meet the program needs of that area of the District of Columbia.

615 USES PROHIBITED (STE)

615.1 The following uses are prohibited within the StE zones as either a principal or an accessory use:

(a) Any establishment that has as its principal use the administration of massages;

(b) Any industrial use first permitted in the PDR-4 zone;

(c) Correctional facility;

(d) Drive-through establishment, where goods are sold/rented or services rendered directly to occupants of motor vehicles while in the vehicles;

(e) Firearm sales, including gun store, ammunition sales, pawn shop carrying guns, or weaponry store;

(f) Self-service storage establishment that provides separate storage areas for individual or business uses;

(g) Sexually-oriented business establishment:

(h) Vehicle repair and servicing, including full-serve and mini-serve gas stations, unattended key card stations, car washes, quick lubrication services, and vehicle emission test sites; and

(i) Vehicle sales.

616 ACCESSORY USES (STE)

616.1 Accessory uses, buildings, or structures customarily incidental and subordinate to the principal uses permitted in Subtitle K § 612 shall be permitted in any StE zone except StE-19 as a matter of right, subject to the development standards Subtitle C, Chapter 8.

617 PREFERRED USES (STE)

617.1 Preferred uses described in Subtitle K § 619 shall be provided in accordance with the provisions of that section.

618 SPECIAL EXCEPTION - GENERAL USE PROVISIONS (STE)

618.1 In addition to the general standards set forth in Subtitle X, an applicant for a special exception to establish a community based institutional facility pursuant to Subtitle K § 616 shall demonstrate that:

(a) The proposal addresses any conditions pertaining to that use as detailed in this chapter;

(b) Noise and other potential impacts associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses;

(c) Traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses; and

(d) The proposed building will comply with the applicable ground floor use.

619 PREFERRED USE REQUIREMENTS (STE)

619.1 Preferred uses shall include any use within the arts, design and creation; eating and drinking establishments; retail; general service; or financial service use categories described in Subtitle B, Chapter 2.

619.2 Each building that faces the following streets or locations in the following zones shall devote not less than fifty percent (50%) of the gross floor area of the ground floor to preferred uses:

(a) StE-3: facing Martin Luther King Jr. Avenue, S.E., Cypress Street, S.E., or Sycamore Street, S.E., and the park;

(b) StE-7: facing Martin Luther King Jr. Avenue, S.E., Cypress Street, S.E., Dogwood Drive, S.E., or Oak Drive, S.E.;

(c) StE-14B: facing Dogwood Drive, S.E., Oak Drive, S.E., or the southwest corner;

(d) StE-15: facing Dogwood Drive, S.E., 13th Street, S.E., Oak Drive, S.E., or the park;

(e) StE-16: facing 13th Street, S.E., and the southwest corner; and

(f) StE-17: facing Dogwood Drive, S.E., 13th Street, S.E., or Oak Drive, S.E.

619.3 Not less than fifty percent (50%) of the surface area of the street wall, including building entrances, of those building frontages described in Subtitle K § 621.2 shall be devoted to doors or display windows having clear or low emissivity glass.

619.4 Preferred uses shall provide direct, exterior access to the ground level.

619.5 The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be fourteen feet (14 ft.).

619.6 Ground floor area required for preferred uses may not be transferred to any other lot through the combined lot development procedures of Subtitle K § 608.

619.7 For good cause shown, the Board of Zoning Adjustment may authorize interim occupancy of the preferred use space required under Subtitle K § 621.2 by other uses permitted in the StE zones for up to a five (5) year period, provided that:

(a) The ground-floor space is suitably designed for future occupancy by preferred uses;

(b) The proposed use is compatible with the surrounding uses; and

(c) It can be demonstrated that a preferred use cannot be accommodated due to market conditions.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 7 REED-COOKE ZONES - RC-1 THROUGH RC-3

700 PURPOSE AND INTENT (RC)

700.1 The Reed-Cooke (RC) zones consist of the RC-1 through RC-3 zones.

700.2 The RC-1 zone is intended provide for areas developed with predominantly moderate- and medium-density rowhouses and apartments.

700.3 The RC-2 zone is intended to permit moderate-density mixed-use development at a limited height and with an emphasis on housing.

700.4 The RC-3 zone is intended to permit medium-density, compact mixed-use development, with an emphasis on residential development at a limited height and with an emphasis on housing.

700.5 The purpose of the Reed-Cooke residential apartment and mixed-use zones is to:

(a) Protect current housing and provide for the development of new housing;

(b) Maintain heights and densities at appropriate levels;

(c) Encourage small-scale business development that will not adversely affect the residential community;

(d) Ensure that new nonresidential uses serve the local community by providing retail goods, personal services, and other activities that contribute to the satisfaction of unmet social, service, and employment needs in the Reed-Cooke and Adams Morgan community;

(e) Protect adjacent and nearby residences from damaging traffic, parking, environmental, social, and aesthetic impacts; and

(f) Ensure the preservation and adaptive reuse of the First Church of Christ Scientist building, located on Lot 872 of Square 2560, through a planned unit development process.

700.6 In addition to other applicable provisions of this title, the requirements of this chapter shall apply to:

(a) All new construction;

(b) All additions, alterations, or repairs that, within any eighteen (18) month period, exceed in cost fifty percent (50%) of the assessed value of the structure as set forth in the records of the Office of Tax and Revenue on the date of the application for a building permit;

(c) Any use that requires a change in the use listed on the owner's or lessee's certificate of occupancy; and

(d) Any existing use that requires a new permit from the Alcoholic Beverage Control Board.

700.7 If there is a dispute between the property owner and the Zoning Administrator about the cost pursuant to Subtitle K § 700.6(b), the cost shall be determined by the average of the estimates furnished by three (3) independent qualified contractors selected in the following manner:

(a) The first shall be selected by the owner;

(b) The second shall be selected by the Zoning Administrator; and

(c) The third shall be selected by the first two (2) contractors.

700.8 The estimates provided for by Subtitle K § 700.7 shall be prepared and submitted according to a standard procedure and format established by the Zoning Administrator.

700.9 The cost of estimates shall be at the expense of the property owner.

701 DENSITY – FLOOR AREA RATIO (FAR) (RC)

701.1 Except as provided in other provisions of this chapter, the maximum permitted floor area ratio (FAR) in a RC zone shall be as set forth in the following table:

TABLE K § 701.1: MAXIMUM PERMITTED FAR

Zone	Use	Maximum FAR
RC-1	Public Library	2.0
	All Other	1.8
	All Other with IZ	2.16
RC-2	Total	2.5
	Total with IZ	3.0
	Non-Residential	1.5 for lots larger than 10,000 sq. ft.
RC-3	Total	3.5
	Total with IZ	4.2
	Non-Residential	1.5 for lots larger than 10,000 sq. ft.

701.2 In the RC-2 and RC-3 zones, an existing building on a lot with an area ten thousand square feet (10,000 sq. ft.) or less may have a maximum FAR of 2.0 for non-residential uses, provided the uses are located in the ground story, and the story directly above the ground story and the use shall not include eating or drinking uses.

701.3 Inclusionary Zoning requirements for the RC zones are as specified in Subtitle C, Chapter 10.

702 HEIGHT AND PENTHOUSE REGULATIONS (RC)

702.1 The maximum permitted building height, not including the penthouse, in a RC zone shall not exceed that given in the following table:

TABLE K § 702.1: MAXIMUM PERMITTED BUILDING HEIGHT AND STORIES

Zone	Maximum Height (Feet)	Maximum No. of Stories
RC-1	40	3
RC-2	40	No limit
RC-3	40 50 with IZ	No limit

702.2 In the RC-3 zone, a building shall be permitted a maximum height of fifty feet (50 ft.), not including the penthouse, provided fifty percent (50%) of the additional gross floor area made possible by the height bonus is devoted to low and moderate income household units, as defined in Subtitle B, Chapter 2.

702.3 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in Subtitle K § 702.4.

702.4 The maximum permitted height of a penthouse, except as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse or flat in Subtitle C § 1500.4, shall be as set forth in the following table:

TABLE K § 702.4: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

ZONE	Maximum Penthouse Height	Maximum Penthouse Stories
RC-1 RC-2	12 ft. except 15 ft. for penthouse mechanical space	1
RC-3	12 ft., except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space

703 LOT OCCUPANCY (RC)

703.1 No structure, including its accessory building, shall occupy its lot in excess of the percentage of lot occupancy set forth in the following table:

TABLE K § 703.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Use	Maximum Lot Occupancy
RC-1	Pub Rec Center	20%
	All Other	60 %
RC-2	Residential	60 %
	Residential with IZ	75%
	All Other	N/A
RC-3	Residential	80%
	Residential with IZ	80%
	All Other	N/A

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

704 REAR YARD (RC)

704.1 A minimum rear yard shall be provided for each structure located in the RC zones as set forth in the following table:

TABLE K § 704.1: MINIMUM REAR YARD

Zone	Minimum Rear Yard Distance
RC-1	A distance equal to 4 inches per 1 foot of principal building height but no less than 15 feet
RC-2	15 feet
RC-3	15 feet

704.2 In the RC-2 and RC-3 zones, a horizontal plane may be established at twenty-five feet (25 ft.) above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yards.

704.3 In the RC-2 and RC-3 zones, rear yards shall be measured as follows:

(a) Where a lot abuts an alley:

(1) For that portion of the structure below a horizontal plane, described in Subtitle K § 704.2, from the center line of the alley to the rear wall of the portion; and

(2) For that portion of the structure above the horizontal plane, described in Subtitle K § 704.2, from the rear lot line to the rear wall of that portion immediately above the plane; and

(b) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

705 SIDE YARD (RC)

705.1 A minimum side yard shall be provided for each structure located in the RC zones as set forth in the following table:

TABLE K § 705.1: MINIMUM SIDE YARD

Zone	Minimum Side Yard Distance
RC-1	None required; however, if a side yard is provided, it shall be no less than 4 ft.
RC-2	None required for a principal building; however, if a side yard is provided, it shall be at least 2 in. wide for each 1 ft. of height of building but no less than 5 ft.
RC-3	None required for a principal building; however, if a side yard is provided, it shall be at least 2 in. wide for each 1 ft. of height of building but no less than 5 ft.

705.2 In the RC-2 and RC-3 zones, any portion of a building setback from the side lot line shall be considered a side yard and not a court.

706 COURT (RC)

706.1 A court is not required in an RC zone, however if a court is provided it shall have the following minimum dimensions:

TABLE K § 706.1: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than three units:	4 in./ft. of height of court; 10 ft. minimum.	4 in./ft. of height of court; 15 ft. minimum.	Twice the square of the required width of court dimension; 350 sq. ft. minimum
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum.	2.5 in./ft. of height of court; 12 ft. minimum.	Twice the square of the required width of court dimension; 250 sq. ft. minimum.

707 GREEN AREA RATIO (RC)

707.1 A minimum green area ratio (GAR) shall be provided for each lot in an RC zone as set forth in the following table pursuant to the conditions and requirements of Subtitle C, Chapter 6:

TABLE K § 707.1: MINIMUM GREEN AREA RATIO

Zone	Minimum GAR
RC-1	0.40
RC-2	0.30
RC-3	0.30

708 ACCESSORY BUILDING REGULATIONS (RC)

708.1 Accessory buildings in the RC-1 zone shall be regulated as outlined in Subtitle F, Chapter 8.

709 ALLEY LOT REGULATIONS (RC)

709.1 Alley lots in the RC-1 zone shall be regulated as outlined in Subtitle F, Chapter 9.

709.2 Alley lots in the RC-2 and RC-3 zones shall be regulated as outlined in Subtitle G, Chapter 15.

710 PLANNED UNIT DEVELOPMENTS (RC)

710.1 The provisions of Subtitle X, Chapter 3 shall not operate to permit a planned unit development in the RC zones to exceed the floor area ratio and height standards of Subtitle K §§ 701 and 702.

710.2 Notwithstanding Subtitle K § 710.1, the Zoning Commission, as part of a planned unit development permitting a hotel integrating the First Church Christ Scientist building on a new lot created by combining Lots 872, 875, and 127 of Square 2560, may permit a building height on former Lots 875 and 127 not to exceed seventy-two feet (72 ft.) measured from Euclid Street, and an overall building density not to exceed 3.99 FAR.

711 PUBLIC EDUCATION BUILDING AND STRUCTURES, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES (RC)

711.1 Public education building and structures, public recreation and community centers, and public libraries shall be controlled through the development standards specified in Subtitle C, Chapter 16.

712 MATTER-OF-RIGHT USES (RC)

712.1 In the RC-1 zone, uses permitted as a matter of right in the RA-2 zone listed in Subtitle U, Chapter 4 shall be permitted as a matter of right in the RC-1 zone, unless otherwise not permitted in Subtitle K § 715.

712.2 In the RC-2 zone, uses permitted as a matter of right in the MU-4 zone listed in Subtitle U § 512 shall be permitted as a matter of right in the RC-2 zone, unless otherwise not permitted in Subtitle K § 715.

712.3 In the RC-3 zone, uses permitted as a matter of right in the MU-5 zone listed in Subtitle U § 513 shall be permitted as a matter of right in the RC-3 zone, unless otherwise not permitted in Subtitle K § 715.

712.4 Other accessory uses customarily incidental to the uses permitted in RC zones under the provisions of this section shall be permitted.

712.5 A drive-through accessory to any permitted use shall not be permitted.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

713 USES PERMITTED BY SPECIAL EXCEPTION (RC)

713.1 In the RC-1 zone, uses listed as special exceptions in the RA-2 zone in Subtitle U, Chapter 4 shall be permitted by special exception in the RC-1 zone if approved by the Board of Zoning Adjustment under Subtitle X and subject to the conditions of each section unless otherwise not permitted in Subtitle K § 715.

713.2 In the RC-2 zone, uses listed as special exceptions in Subtitle U § 512 shall be permitted by special exception in the RC-2 zone if approved by the Board of Zoning Adjustment under Subtitle X and subject to the conditions of each section, unless otherwise not permitted in Subtitle K § 715.

713.3 In the RC-3 zone, uses listed as special exceptions in Subtitle U § 513 shall be permitted by special exception in the RC-3 zone if approved by the Board of Zoning Adjustment under Subtitle X and subject to the conditions of each section, unless otherwise not permitted in Subtitle K § 715.

713.4 Chancery uses in shall be permitted, subject to disapproval by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 2.

713.5 A parking lot or garage shall be permitted by special exception if approved by the Board of Zoning Adjustment under Subtitle X and subject to following conditions:

(a) The parking lot or garage shall meet the conditions specified in Subtitle U §§ 203.16(c) through 203.16(h);

(b) The parking lot or garage shall meet the conditions in Subtitle K § 715; and

(c) The Board of Zoning Adjustment may require that all or a portion of the parking spaces be reserved for the following:

(1) Residential parking;

(2) Unrestricted commercial parking;

(3) Accessory parking for uses within eight hundred feet (800 ft.); and

(4) Shared parking for different uses by time of day.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

714 CONDITIONS ON USES IN FORMER PUBLIC SCHOOLS (RC)

714.1 Within a building owned by the District of Columbia that formerly served as the location of a public school ("former school building"), the following use provisions shall apply:

(a) A use permitted as a matter of right pursuant to Subtitle U §§ 212.3 and 212.4, unless otherwise not permitted in Subtitle K § 715; and

(b) A use permitted by special exception pursuant to Subtitle U § 212.5, unless otherwise not permitted in Subtitle K § 715.

715 USES NOT PERMITTED IN REED-COOKE ZONES (RC)

715.1 The following uses shall not be permitted in the RC zones either as a matter of right or by special exception:

(a) Antenna tower in excess of twenty feet (20 ft.) in height;

(b) Any use not permitted in the M-10 zone, except a parking lot as permitted by Subtitle K § 713.5;

(c) Assembly hall, auditorium, or public hall;

(d) Automobile laundry;

(e) Automobile or truck sales;

(f) Automobile rental agency that stores or services automobiles within an RC zone;

(g) Bar or cocktail lounge;

(h) Billiard parlor or pool hall;

(i) Boat or other marine sales;

(j) Bowling alley;

(k) Bus passenger depot;

(l) Drive-through;

(m) Funeral mortuary or other similar establishment;

(n) Gasoline service station or repair garage;

(o) Hotel;

(p) Motorcycle sales or repair;

(q) Movie theater;

(r) Off-premises alcoholic beverage sales, except that the off-premises beer and wine sales accessory use in the grocery store located in Square 2572, Lot 36 may continue as a matter of right provided that it shall not occupy more than 2,078 square feet of the store's gross floor area;

(s) On-premises dry cleaning establishment;

(t) Parcel delivery service establishment other than one exclusively dedicated to serving a sound stage or a movie, video, or television production facility that existed on April 26, 1991;

(u) Restaurant or fast food establishment;

(v) Satellite reception dish greater than fifteen feet (15 ft.) in diameter;

(w) Transient accommodations that are not home occupations;

(x) Veterinary hospital; and

(y) Video game parlor.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

716 RELIEF FROM DEVELOPMENT STANDARDS (RC)

716.1 An exception from the requirements of this chapter shall be permitted by special exception if approved by the Board of Zoning Adjustment under Subtitle X, and subject to the following conditions:

(a) The use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the RC-1 zone;

(b) Vehicular ingress and egress shall be designed and located so as to minimize conflict with pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic condition;

(c) Adequate off-street parking shall be provided for employees and for trucks and other service vehicles;

(d) Noise associated with the operation of a proposed use will not adversely affect adjacent or nearby residences;

(e) No outdoor storage of materials, nor outdoor processing, fabricating, or repair shall be permitted; and

(f) If located within a RC-3 zone, the use shall not be within twenty-five feet (25 ft.) of a residentially zoned property, unless separated there from by a street or alley.

716.2 The use, building, or feature at the size, intensity, and location proposed will not adversely affect adjacent and nearby property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area.

717 PARKING, LOADING, AND VEHICLE ACCESS (RC)

717.1 Parking requirements for the RC zones are as specified in Subtitle C, Chapter 7.

717.2 Bicycle parking requirements for the RC zones are as specified in Subtitle C, Chapter 8.

717.3 Loading requirements for the RC zones are as specified in Subtitle C, Chapter 9.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 8 MIXED-USE-UPTOWN ARTS ZONES - ARTS-1 THROUGH ARTS-4

800 PURPOSE AND INTENT (ARTS)

800.1 The purposes of the Mixed-Use-Uptown Arts (ARTS) zones (ARTS-1 through ARTS-4) are to:

(a) Promote the creation of arts, arts-related, and art-supporting uses;

(b) Encourage a pedestrian scale of development, a mixture of building uses, adaptive reuse of older buildings, strengthened design character, public safety, and eighteen (18) hour activity;

(c) Require uses that encourage pedestrian activity, especially retail, entertainment, and residential uses;

(d) Provide for an increased presence and integration of the arts and related cultural and arts-related support uses;

(e) Expand the area's housing supply in a variety of rent and price ranges;

(f) Expand business and job opportunities, and encourage development of residential and commercial buildings;

(g) Strengthen the design character and identity of the area by means of physical design standards;

(h) Encourage adaptive reuse of older buildings in the area and an attractive combination of new and old buildings; and

(i) Foster eighteen (18) hour activity and increased public safety.

800.2 The ARTS-1 zone is intended to permit moderate-density, mixed-use development.

800.3 The ARTS-2 zone is intended to permit medium-density, compact mixed-use development, with an emphasis on residential development.

800.4 The ARTS-3 zone is intended to permit medium-density, mixed-use development, with a focus on employment.

800.5 The ARTS-4 zone is intended to permit medium- to high-density, mixed-use development, with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions.

800.6 The requirements of this chapter shall apply to all new construction and to any addition, alteration, or repair that within any twenty-four (24) month period exceeds seventy-five percent (75%) of the assessed value of the building; provided:

(a) The cost basis for alterations or additions to an existing building shall be the amount indicated by the applicant on the application for a building permit; and

(b) The assessed value of the building shall be the value in the records of the Office of Tax and Revenue as of the date of the building permit application.

801 DENSITY – FLOOR AREA RATIO (FAR) (ARTS)

801.1 Except as provided in other provisions of this chapter, the maximum permitted floor area ratio (FAR) in an ARTS zones shall be as set forth in the following table:

TABLE K § 801.1: MAXIMUM PERMITTED FAR

Zone	Use	Maximum FAR
ARTS-1	Total	2.5
	Total with IZ	3.0 (IZ)
	Non-Residential	1.5
ARTS-2	Total	3.5
	Total with IZ	4.2 (IZ)
	Non-Residential	1.5
ARTS-3	Total	4.0
	Total with IZ	4.8 (IZ)
	Non-Residential	2.5
ARTS-4	Total	6.0
	Total with IZ	7.2 (IZ)
	Non-Residential	3.0

801.2 In an ARTS-1 and ARTS-2 zone, an existing building on a lot with an area ten thousand square feet (10,000 sq. ft.) or less may have a maximum FAR of 2.0 for non-residential uses, provided the non-residential uses are located in the ground story, and the story directly above the ground story and the use of the additional 0.5 FAR shall not include eating or drinking uses.

801.3 In an ARTS-4 zone, development of a lot or lots in a combined lot development pursuant to Subtitle C, Chapter 12 shall provide not less than 2.5 FAR of residential or hotel development, subject to the spacing requirement of Subtitle K § 811.5, concurrent with any commercial development on the lot or combined lots; provided that this requirement shall not apply to:

(a) A lot or a combined lot having less than seven thousand five hundred square feet (7,500 sq. ft.) of land area;

(b) A conversion of a building constructed before 1958 to nonresidential uses; or

(c) A building that contributes to a historic district or is designated a landmark, and that has at least 0.5 FAR occupied by or reserved for one (1) or more of the preferred arts uses as listed in Subtitle U, Chapter 7, other than eating and drinking establishments.

801.4 Inclusionary Zoning requirements for the ARTS zones are as specified in Subtitle C, Chapter 10.

802 BONUS DENSITY (ARTS)

802.1 A project shall be eligible for bonus density for space devoted to one (1) or more of the preferred arts uses of Subtitle K § 802.2, subject to the following provisions:

(a) Bonus density may be used either to increase the gross floor area of the building for any permitted use up to the maximum density specified in paragraph (b) of this subsection, or to provide nonresidential uses or development in excess of the otherwise applicable limitation on the gross floor area of nonresidential uses in the underlying zone district;

(b) No building that uses bonus density shall achieve a maximum density in excess of the following:

(1) 3.0 FAR in the ARTS-1 zone,

(2) 4.5 FAR in the ARTS-2 or ARTS-3 zones, or

(3) 6.0 FAR in the ARTS-4 zone; and

(c) No property subject to Subtitle C, Chapter 10, shall be eligible for bonus gross floor area under this chapter unless it has met the set-aside requirements and used all the bonus density available through Subtitle C, Chapter 10.

802.2 The following preferred uses shall be eligible for bonus floor area at the ratio indicated:

TABLE K § 802.2: PREFERRED USES FOR BONUS FLOOR AREA

Preferred Use	GFA devoted to the bonus use	Proportionate number of sq. ft. of additional GFA earned for on-site or off-site development
Legitimate theater;	1	3
Department store, drugstore, dry cleaner, laundry, grocery store, hardware store, variety store, and any use listed in Subtitle U § 700.6 other than legitimate theater or drinking places;	1	2
Any general retail use or use listed in Subtitle U, Chapter 7, in excess of the required 0.5 FAR at ground level; not to be counted in addition to bonus floor area ; and	1	1.5
Space in a building constructed before 1958 and occupied by one (1) of the uses listed in paragraphs (a) through (d); provided, that this bonus shall count in addition to any applicable use bonus.	1	1

802.3 A building that includes 3.0 FAR or more devoted to residential use is entitled to a bonus of 0.5 FAR.

802.4 Bonus density achieved through the provision of preferred uses under the provision of this chapter does not add to the set-aside requirement of Inclusionary Zoning in Subtitle C, Chapter 10.

802.5 An existing legitimate theater shall be eligible for the bonus indicated; provided, if the theater company goes out of business or leaves the area governed by this chapter, the owner-developer shall make every good faith effort to transfer the agreement to another theater company to occupy the same or different premises of similar size; failing which, the owner-developer shall apply to the Board of Zoning Adjustment for a special exception pursuant to Subtitle X and Subtitle K § 813, at which proceeding the Board and the applicant shall give first preference to substituting another bonus use from Subtitle K § 802 in place of the prior theater use.

803 HEIGHT AND PENTHOUSE REGULATIONS (ARTS)

803.1 Except as provided in this section, the maximum permitted building height, not including the penthouse, shall be as set forth in the following table:

TABLE K § 803.1: MAXIMUM PERMITTED BUILDING HEIGHT

Zone	Maximum Height
ARTS-1	50 ft.
	50 ft. (IZ)
ARTS-2	65 ft.
	70 ft. (IZ)

Zone	Maximum Height
ARTS-3	65 ft.
	75 ft. (IZ)
ARTS-4	90 ft.
	100 ft. (IZ)

803.2 A public recreation and community center shall not exceed a maximum height of forty-five feet (45 ft.) in any ARTS zone.

803.3 In the underlying ARTS-3 zone, a building may be constructed in excess of the height limit of sixty-five feet (65 ft.), up to a maximum height of seventy-five feet (75 ft.); provided:

(a) No penthouse permitted by this title shall exceed a height of eighty-three and one-half feet (83.5 ft.) above the measuring point used for the building; and

(b) If a lot abuts either a R, RF, or RA zone or an alley that serves as the zone district boundary line of an adjacent R, RF, or RA zone, no part of the building shall project above a plane drawn at a forty-five degree (45°) angle from a line located fifty feet (50 ft.) directly above the property line that abuts the R, RF, or RA zone or the alley.

803.4 In the ARTS-4 zone, if a building is located on a lot that abuts a street, an alley, or a zone district boundary with a R, RF, or RA zone, no part of the building, including the penthouse, shall project above a plane drawn at a forty-five degree (45°) angle from a line located sixty-five feet (65 ft.) directly above the property line on each such street, alley, or zone district boundary line.

803.5 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations set forth in the following table:

TABLE K § 803.5: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

ZONE	Maximum Penthouse Height	Maximum Penthouse Stories
ARTS-1	12 ft. except 15 ft. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
ARTS-2	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; Second story permitted for penthouse mechanical space
ARTS-3	Except as limited in Subtitle K § 803.3: 12 ft. except 18 ft. 6 in. for penthouse mechanical space	1

ZONE	Maximum Penthouse Height	Maximum Penthouse Stories
ARTS-4	Except as limited in Subtitle K § 803.4: 20 ft.	1 plus mezzanine; Second story permitted for penthouse mechanical space

804 LOT OCCUPANCY (ARTS)

804.1 No structure, including accessory buildings, shall occupy a lot in excess of the percentage of lot occupancy set forth in the following table:

TABLE K § 804.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Use	Lot Occupancy Maximum
ARTS-1	Public Rec Center	20%
	Residential	60 %
	Residential with IZ	75%
	All Other	n/a
ARTS-2	Public Rec Center	20%
	Residential	80%
	Residential with IZ	80%
	All Other	n/a
ARTS-3	Public Rec Center	20%
	Residential	75%
	Residential with IZ	80%
	All Other	n/a
ARTS-4	Public Rec Center	20 %
	Residential	75 %
	Residential with IZ	80%
	All Other	n/a

804.2 For the purposes of this section, "residential uses" includes dwellings, flats, residential rowhouses, residential apartments, boarding houses, hospitals, and community-based institutional facilities.

805 REAR YARD (ARTS)

805.1 A rear yard shall be provided for each structure in the ARTS zones with a minimum depth as set forth in the following table:

TABLE K § 805.1: MINIMUM REAR YARD

Zone	Minimum Rear Yard
ARTS-1	15 ft.
ARTS-2	15 ft.
ARTS-3	2.5 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet

Zone	Minimum Rear Yard
ARTS-4	2.5 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet

805.2 In the ARTS-1, ARTS-2, and ARTS-3 zones, a horizontal plane may be established at twenty-five feet (25 ft.) above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yards.

805.3 In the ARTS-1, ARTS-2, and ARTS-3 zones, rear yards shall be measured as follows:

(a) Where a lot abuts an alley:

(1) For that portion of the structure below a horizontal plane described in Subtitle K § 805.2, from the center line of the alley to the rear wall of the portion; and

(2) For that portion of the structure above the horizontal plane described in Subtitle K § 805.2, from the rear lot line to the rear wall of that portion immediately above the plane; and

(b) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

805.4 In the ARTS-4 zone, a rear yard is required only for residential uses and shall be established subject to the following conditions:

(a) A rear yard shall be established no lower than the first level of residential use;

(b) Where a lot abuts an alley, the rear yard may be measured from the center line of the alley to the rear wall of the building or other structure; and

(c) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

805.5 The Board of Zoning Adjustment may waive rear yard requirements pursuant to Subtitle X and Subtitle K § 813.

806 SIDE YARD (ARTS)

806.1 No side yard is required in an ARTS zone for a principal building; however, if a side yard is provided it shall be at least two inches (2 in.) wide for each foot of height of building but no less than five feet (5 ft.).

806.2 Any portion of a building setback from the side lot line shall be considered a side yard and not a court.

807 COURT (ARTS)

807.1 A court is not required in an ARTS zone; however, if a court is provided it shall have the following minimum dimensions:

TABLE K § 807.1: MINIMUM COURT DIMENSIONS

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than three units:	4 in./ft. of height of court; 10 ft. minimum	4 in./ft. of height of court; 15 ft. minimum	Twice the square of the required width of court dimension; 350 sq. ft. minimum
Non-Residential and Lodging:	2.5 in./ft. of height of court; 6 ft. minimum	2.5 in./ft. of height of court; 12 ft. minimum	Twice the square of the required width of court dimension; 250 sq. ft. minimum

808 GREEN AREA RATIO (ARTS)

808.1 A minimum green area ratio (GAR) shall be provided for each lot in an ARTS zone as set forth in the following table pursuant to the conditions and requirements of Subtitle C, Chapter 6:

TABLE K § 808.1: MINIMUM GREEN AREA RATIO

Zone	Minimum GAR
ARTS-1	0.30
ARTS-2	0.30
ARTS-3	0.25
ARTS-4	0.20

809 PLANNED UNIT DEVELOPMENT (ARTS)

809.1 In the ARTS zones, the bonus density and height permitted with bonus uses shall serve as the guidelines for planned unit developments.

810 STREET FRONTAGE DESIGN REQUIREMENTS (ARTS)

810.1 The following design requirements shall apply to any lot that fronts on 14th Street, U Street, 7th Street, or Florida Avenue between 7th and 9th Streets ("pedestrian streets"):

(a) No driveway that provides access from a pedestrian street to required parking spaces or loading berths shall be permitted;

(b) Each new building on a lot that fronts on a pedestrian street shall be designed and built so that not less than seventy-five percent (75%) of the

streetwall(s) to a height of not less than fifteen feet (15 ft.) shall be constructed to the street lot line; and

(c) Not less than fifty percent (50%) of the surface area of the streetwall(s) at the ground level of each building on a lot that fronts on a pedestrian street shall be devoted to display windows and to entrances to commercial uses or to the building; provided:

(1) The windows shall use clear or low-emissivity glass, except for decorative or architectural accent; and

(2) Entrances to the building, including entrances to shops and the main lobby, shall be separated by not more than forty feet (40 ft.) on average for the linear frontage of the building.

811 USE PERMISSIONS (ARTS)

811.1 In an ARTS zone, the retail and service uses shall be permitted as a matter of right subject to the conditions of this section.

811.2 In the ARTS-1 and ARTS-2 zones, arts uses in Subtitle U, Chapter 7 shall be permitted as a matter of right in addition to the MU-Use Group E standards of Subtitle U, Chapter 5, subject to the limitations and conditions of this chapter.

811.3 In the ARTS-3 zone, the arts uses in Subtitle U, Chapter 7 shall be permitted as a matter of right in addition to the MU-Use Group F standards of Subtitle U, Chapter 5, subject to the limitations and conditions of this chapter.

811.4 In the ARTS-4 zone, the arts uses in Subtitle U, Chapter 7 shall be permitted as a matter of right in addition to the MU-Use Group G standards of Subtitle U, Chapter 5, subject to the limitations and conditions of this chapter.

811.5 Where there is a conflict between this chapter and Subtitle U, this chapter shall govern.

811.6 Arts use groups listed in Subtitle U § 700.6 subject to the restriction on eating and drinking establishments of Subtitle K § 811.9, retail, service, general, and service, financial uses shall occupy no less than fifty percent (50%) of the ground floor level of each building on a lot that fronts on 14th Street, U Street, 7th Street, or Florida Avenue between 7th and 9th Streets; provided, this requirement shall not apply to a building located on a lot less than fifty feet (50 ft.) in width, measured along the property line that abuts the public street, if the building is used as an apartment house, multiple dwelling, or hotel.

811.7 A hotel shall be permitted as a matter of right provided no other hotel is located within five hundred feet (500 ft.).

811.8 No drive-through accessory to any use shall be permitted.

811.9 Eating and drinking establishments shall be subject to the following limitations:

(a) No portion of an eating and drinking establishment located on the ground floor is permitted to occupy more than fifty percent (50%) of the linear frontage of each individual square, as set forth below:

TABLE K § 811.9: LINEAR FRONTAGE OF EATING AND DRINKING ESTABLISHMENTS

14th Street, N.W.		**U Street, N.W.**	
Square	Frontage (feet)	Square	Frontage (feet)
202	222.5	204	305.3
203	310.0	205	618.0
204	320.0	236	523.4
205	430.6	237	538.5
206	399.8	273	225.3
207	450.1	274	340.9
208	400.0	304	192.2
209	380.0	305	186.0
210	203.5	332	189.7
211	304.2	333	187.7
234	253.1	359	96.8
235	310.0	360	230.4
236	320.0	361	251.7
237	380.0		
238	450.0		
239	200.0		
240	391.0		
241	450.0		
242	363.1		
242N	154.5		

(b) An eating and drinking establishment not located on the ground (street) level of a building shall not count towards the fifty percent (50%) limit; and

(c) An entrance to an eating and drinking establishment that is not located on the ground (street) level shall not count towards the fifty percent (50%) limit.

811.10 Required parking spaces may be shared by time of day with other uses specified in this section to meet all or a portion of the parking requirement for the uses on a lot; provided:

(a) The eligible evening uses shall be restaurant, legitimate theater, movie theater, dinner theater, or cabaret;

(b) The eligible daytime uses shall be office use and the arts uses and arts-related uses with the exception of the evening uses listed in paragraph (a) of this subsection; and

(c) The respective property owners shall execute an agreement that identifies the designated parking spaces and provides that use of the spaces for permitted daytime uses shall cease at no later than 6:00 p.m., Monday through Saturday, and shall be available for parking by the specified evening uses as agreed to by the parties involved. This agreement shall be filed with the Zoning Administrator to be maintained as part of the certificate of occupancy file on each affected property.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

812 COMBINED LOT DEVELOPMENT (ARTS)

812.1 Combined lot development is permitted for the purposes of transferring bonus density and allocating the permitted mixture of uses among development sites, in accordance with Subtitle C, Chapter 12 and the following provisions.

(a) The lots may be located in the same square or in different squares within the ARTS zones;

(b) Bonus floor area earned by the provisions of Subtitle K §§ 801.4 or 802 may be developed on any lot or combination of lots governed by the instrument required by Subtitle C, Chapter 12; provided, no development on any lot shall exceed the maximum height and bulk standards of this chapter;

(c) The ground level uses required by Subtitle K § 811 shall not be transferred, but shall be provided on each lot; and

(d) If a combined lot development involves the transfer of bonus density or allocates residential development rights from one (1) lot to another, the certificate of occupancy for the bonus floor area for the nonresidential building shall not be issued until a building permit has been issued for the building that will provide the residential or other preferred uses.

813 SPECIAL EXCEPTION (ARTS)

813.1 The Board of Zoning Adjustment may grant exceptions pursuant to Subtitle X, Chapter 9 from the requirements or limits of this chapter, other than Subtitle K § 811.9, subject also to the following criteria:

(a) The uses, buildings, or features at the size, intensity, and locations proposed, will substantially advance the purposes of the ARTS zones and will not adversely affect neighboring property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area;

(b) The architectural design of the project will enhance the urban design features of the immediate vicinity in which it is located; provided, if a

historic district or historic landmark is involved, the Board of Zoning Adjustment shall refer the application to the Historic Preservation Office for review and report; and

(c) Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions.

813.2 The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the zone districts.

813.3 A public recreation and community center may have a lot occupancy up to forty percent (40%) if approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9 provided that the agency shows that the increase is consistent with agency policy of preserving open space.

814 PARKING, LOADING, AND VEHICLE ACCESS (ARTS)

814.1 Parking requirements for the ARTS zones are as specified in Subtitle C, Chapter 7.

814.2 Bicycle parking requirements for the ARTS zones are as specified in Subtitle C, Chapter 8.

814.3 Loading requirements for the ARTS zones are as specified in Subtitle C, Chapter 9.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 9 WALTER REED ZONES – WR-1 THROUGH WR-8

900 GENERAL PROVISIONS AND PURPOSE AND INTENT (WR)

900.1 The purposes of the Walter Reed (WR) zones (WR-1 through WR-8) are to:

(a) Provide for the growth of the former Walter Reed Army Medical Center campus with a broad mix of uses, achieved through the adaptive reuse of existing buildings as well as new construction, as generally indicated in the Comprehensive Plan and as recommended by the planning studies of the area;

(b) Preserve the unique historic architectural and landscape character of the Walter Reed campus as a resource for the adjacent neighborhoods and the District as a whole;

(c) Reweave the Walter Reed campus into the physical and social fabric of the adjacent neighborhoods by extending the existing street grid into the WR zone;

(d) Create a vibrant town center that will provide economic development, employment, and retail opportunities for the District and adjacent neighborhoods;

(e) Advance sustainability performance with green building techniques and promote innovative energy uses and stormwater management; and

(f) Accommodate selected uses pursuant to a Base Realignment and Closure Act Notice of Interest process.

900.2 This chapter shall constitute the Zoning Regulations for the geographic area described by the plat attached to Z.C. Order No. 14-22. Where there are conflicts between this chapter and other chapters or subtitles of this title, the provisions of this chapter shall govern.

900.3 The WR zone is divided into the WR-1 through the WR-8 zones. Each zone may have one (1) or more sub-areas, as identified in the Development Standards table for each zone. Each sub-area may be comprised of one (1) or more Land Bays.

900.4 Land Bays are defined on the plat attached to Z.C. Order No. 14-22 and also shown, for reference only, in the boundary maps of this chapter for each zone.

900.5 Any reference to a street refers to either existing or proposed streets as depicted on the plat attached to Z.C. Order No. 14-22.

900.6 Any reference to a building number refers to the buildings as identified in the Walter Reed Army Medical Center Small Area Plan, adopted by the Council of the District of Columbia, April 30, 2013.

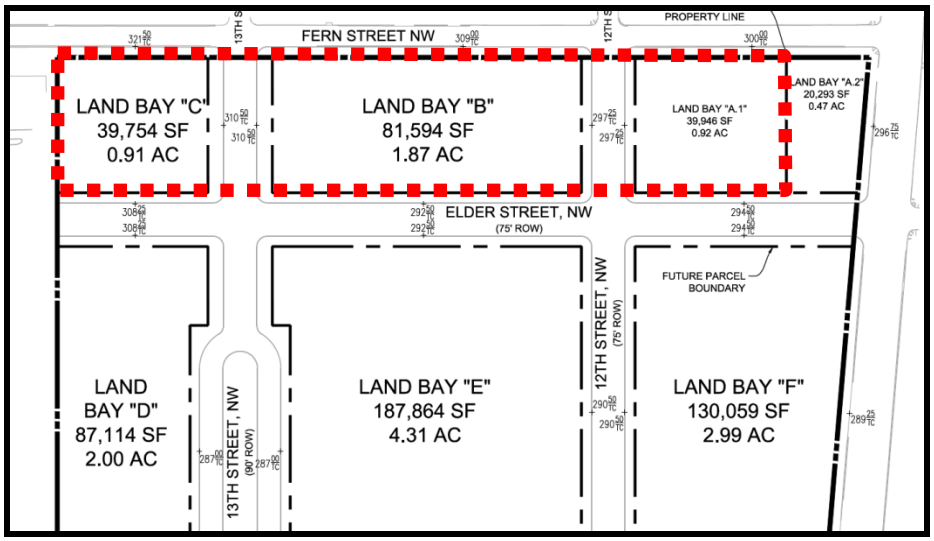
900.7 The area of private rights-of-way shall not be included in the area of any land bay, nor included in the calculation of floor area ratio (FAR).

900.8 In the WR zone, square footage allocated for streetcar related facilities or for the production of energy, such as co- or tri-generation facilities, does not count against FAR maximums.

900.9 In the WR zone, floor area allocated to a covered loading area, whose perimeter is at least seventy-five percent (75%) lined with other uses, does not count against FAR maximums.

901 WR-1 ZONE

FIGURE K § 901: ILLUSTRATION OF BOUNDARIES OF THE WR-1 ZONE



901.1 The WR-1 zone is intended to:

(a) Provide for residential development that complements the character of nearby established residential neighborhoods;

(b) Transition from the low- to moderate-scale residential uses north of Fern Street to the medium-density commercial and residential uses proposed for south of Elder Street; and

(c) Discourage driveway access directly from the street to private off-street parking.

901.2 The development standards for the WR-1 zone are set forth in the following table:

TABLE K § 901.2: WR-1 DEVELOPMENT STANDARDS

WR-1							
Sub-Area (Land Bays A.1, B and C)	**Lot Width (min.)**	**Building Height (max.)**	**Stories (max.)**	**Lot Occupancy (max.)**	**Pervious Surface (min.)**	**Side Yard (min.)**	**Rear Yard (min.)**
Lots with any frontage on Fern Street	18 ft.	45 ft.	4	70%	10%	None required; 4 ft. if provided	None required
Any other lot	18 ft.	55 ft.	5	70%	10%	None required; 4 ft. if provided	None required

901.3 The maximum number of permitted dwelling units on any lot shall be two (2), which includes both principal and accessory units.

901.4 For any inclusionary or affordable residential unit that is administered through the Department of Housing and Community Development, the minimum lot width shall be sixteen feet (16 ft.).

901.5 Height shall be measured in accordance with Subtitle B §§ 308, except that for any building fronting on Elder Street, the building height measuring point may be established at the finished grade at the middle of the front of the building.

901.6 No building shall be located between Fern and Elder Streets within fifty feet (50 ft.) of the western boundary of the WR zone.

901.7 In the WR-1 zone, no driveway or garage entrance providing access to parking or loading areas shall be permitted from a public or private street.

901.8 In the WR-1 zone, any private driveway shall be constructed of pervious materials. This does not apply to a private alley.

901.9 An addition to a single dwelling unit or flat, or a new or enlarged accessory structure on the same lot as a single dwelling unit or flat, shall be permitted, even though the addition or accessory structure does not comply with all of the requirements of Subtitle K § 901.2, as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this subsection:

(a) The addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(1) The light and air available to neighboring properties shall not be unduly affected;

(2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

(3) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage; and

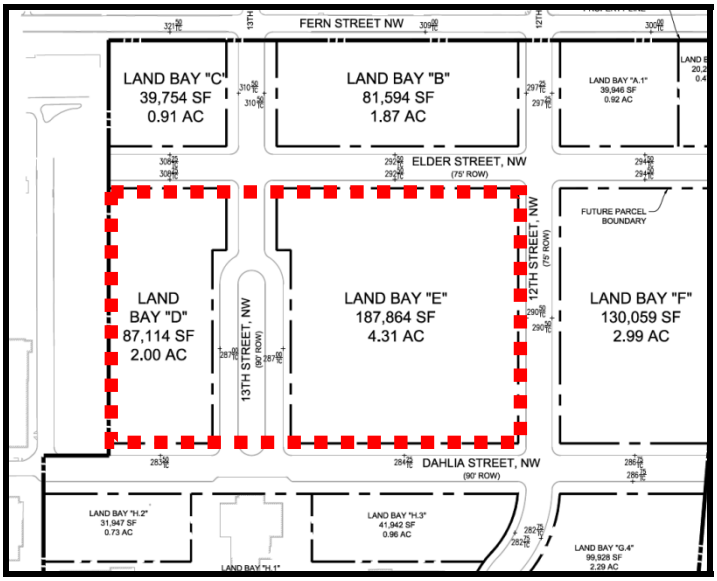
(4) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways;

(b) The lot occupancy of all new and existing structures on the lot shall not exceed eighty percent (80%); and

(c) The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties.

902 WR-2 ZONE

FIGURE K § 902: ILLUSTRATION OF BOUNDARIES OF THE WR-2 ZONE



902.1 The WR-2 zone is intended to:

(a) Create a vibrant and pedestrian-oriented commercial and residential center to serve as a housing, commercial, and retail anchor for the Walter Reed campus, adjacent neighborhoods, and the District.

(b) Promote an engaging streetscape to activate adjacent uses and users;

(c) Encourage clear visibility of retail uses along 12th Street from Georgia Avenue; and

(d) Create new passive and active open space amenities to accommodate residential and retail uses.

902.2 The development standards for the WR-2 zone are set forth in the following table:

TABLE K § 902.2: WR-2 DEVELOPMENT STANDARDS

WR-2					
Sub-Area	**Building Height (max.)**	**Stories (max.)**	**Floor Area Ratio (max.)**		**Residential Lot Occupancy Above the First Two Stories (max.)**
			Total	**Non-Residential Use**	
Land Bay D	85 ft.	7	2.5	1.0	80%
Land Bay E	85 ft.	7	3.75	1.0	80%

902.3 The non-residential maximum FAR requirement shall be measured per sub-area, as opposed to per building.

902.4 Lot occupancy on the first two (2) stories is permitted up to one hundred percent (100%), regardless of use.

902.5 If less than 3.75 FAR is developed in Land Bay E, excess floor area can be transferred to Land Bay K.1 in the WR-3 zone, or Land Bay F in the WR-3 zone, or Land Bay D in the WR-2 zone, or a combination of those land bays, subject to the requirements of this subsection:

(a) No more than one hundred fifty thousand square feet (150,000 sq. ft.) of floor area may be transferred in total, of which no more than fifty thousand square feet (50,000 sq. ft.) may be non-residential floor area;

(b) The maximum total FAR and the maximum non-residential FAR on Land Bay E shall be reduced by the total amount of floor area transferred and the amount of non-residential floor area transferred, respectively;

(c) The maximum total FAR and the maximum non-residential FAR on the receiving land bays shall be increased by the total amount of floor area transferred and the amount of non-residential floor area transferred, respectively;

(d) The allowable building height and lot occupancy on the receiving parcels shall not be increased, but the total FAR and the non-residential FAR of the receiving land bays may be increased to the amounts listed in the following table:

TABLE K § 902.5 (d): WR-1 DEVELOPMENT STANDARDS

Land Bay	Maximum FAR (Total)	Maximum FAR (Non-residential uses)
K.1	3.5	1.25
F	2.5	1.25
D	3.5	1.25

(e) Before the transfer may occur, the applicant shall record in the Land Records of the District of Columbia a covenant for each property, in a form acceptable to the District, that states the size, in square feet, of Land Bays E, K.1, F, and D, the maximum FAR and non-residential FAR permitted as a matter of right for Land Bays E, K.1, F, and D, the total amount of floor area being transferred, the amount of non-residential floor area being transferred, and the resulting maximum FAR and non-residential FAR for both Land Bays E, K.1, F, and D; and

(f) The applicant for any building permit for Land Bays E, K.1, F, or D shall submit with the permit application the covenant required by sub-paragraph (e) as well as any and all calculations used to derive the matter of right and resulting FARs for the land bays.

902.6 In the WR-2 zone, no less than one hundred percent (100%) of the façade of buildings located along Elder Street, Dahlia Street, 12th Street, and 13th Street shall be built to within ten feet (10 ft.) of the property lines abutting the subject street to a height of not less than twenty-five feet (25 ft.), except that:

(a) The requirements of this subsection shall not apply to the portions of building façades that front on a plaza located along 12th Street;

(b) The height requirement of this subsection may be reduced to eighteen feet (18 ft.) if the roof immediately above the eighteen (18)-foot façade is occupied by a public or private outdoor terrace; and

(c) Relief from the build-to requirements of this subsection may be granted by the Board of Zoning Adjustment as a special exception subject to the requirements of Subtitle X, Chapter 9, provided that the applicant adequately demonstrates that:

(1) The proposed design meets the intent of creating a streetwall along the street in question; and

(2) The area set back from the property line does not unduly restrict access by the public by a gate, fence, wall, or other barrier.

902.7 In the WR-2 zone, all portions of the ground floor devoted to non-residential uses shall be subject to the following requirements:

(a) The minimum floor-to-ceiling clear height shall be fourteen feet (14 ft.), except for those spaces within the ground floor of any building devoted to the following uses: mechanical, electrical, and plumbing; storage; fire control; loading; parking; and retail corridors and service corridors;

(b) The surface of any streetwall or wall fronting on a plaza shall devote at least fifty percent (50%) of the surface area at the ground floor to display windows with clear glass or pedestrian entrances;

(c) Each non-residential use with frontage on a public street or plaza shall have an individual public pedestrian entrance directly accessible from a sidewalk or plaza upon which the use has frontage;

(d) Pedestrian entrances or areas where future entrances to non-residential uses could be installed without structural changes shall be located no more than an average distance of forty feet (40 ft.) apart on all façades fronting a public street or plaza;

(e) On 12th Street, no single non-residential occupancy shall occupy more than one hundred (100) consecutive linear feet of ground-floor building frontage. On other streets, no single non-residential occupancy shall occupy more than fifty (50) consecutive linear feet of ground-floor building frontage; and

(f) One (1) or more building frontages of a grocery store may be exempt from the requirements of paragraph (e) provided that:

(1) The grocery store contains as an ancillary use a café, restaurant or similar use, or a seating area within the grocery store where food and beverages purchased on-site may be consumed;

(2) The use described in sub-paragraph (1) is located directly against the subject building frontage;

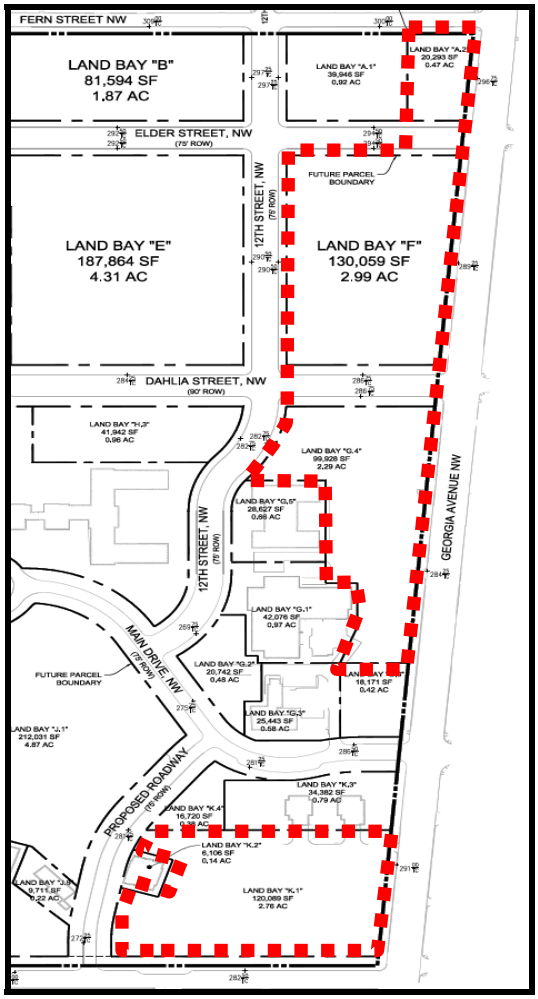
(3) Clear glass allows the plain view of the use from the exterior of the building;

(4) The use is open to the public at least during normal grocery store hours; and

(5) In no case shall a single non-residential occupancy occupy more than two hundred (200) consecutive linear feet of ground-floor building frontage on 12th Street or one hundred feet (100 ft.) on any other street.

903 WR-3 ZONE

FIGURE K § 903: ILLUSTRATION OF BOUNDARIES OF THE WR-3 ZONE



903.1 The WR-3 zone is intended to:

(a) Provide for moderate- to medium-density commercial and residential development that activates Georgia Avenue frontage through enhanced ground-floor retail opportunities, a more uniform street wall, and publicly accessible plazas;

(b) Maintain a sensitive scale of development in relation to properties on the east side of Georgia Avenue as appropriate; and

(c) Preserve existing and encourage new green and open space to activate the site, and to allow for recreation opportunities as appropriate.

903.2 The development standards for the WR-3 zone are set forth in the following table:

TABLE K § 903.2: WR-3 DEVELOPMENT STANDARDS

WR-3						
Sub-Area	**Building Height (max.)**	**Stories (max.)**	**Floor Area Ratio (max.)**		**Residential Lot Occupancy Above the First Two Stories (max.)**	**Setbacks**
			Total	**Non-Residential Use**		
Land Bay A.2	70 ft.	5	3.5	1.0	80%	n/a
Land Bay F	See § 903.3	6	1.75	1.0	80%	n/a
Land Bay G.4	75 ft.	6	3.0	1.0	80%	n/a
Land Bay K.1	70 ft.	5	2.75	1.0	80%	See § 903.7

903.3 For Land Bay F, the maximum height of buildings or structures shall be sixty (60) feet within one hundred feet (100 ft.) of Georgia Avenue, and seventy-five feet (75 ft.) elsewhere.

903.4 For Land Bays F, G.4, and K.1, the non-residential maximum FAR requirement shall be measured by sub-area, as opposed to per building.

903.5 Lot occupancy on the first two (2) stories is permitted up to one hundred percent (100%), regardless of use, and except as limited by Subtitle K § 903.10.

903.6 Non-residential uses or building entrances to any use shall occupy one hundred percent (100%) of the ground-floor building façades facing the plaza constructed pursuant to Subtitle K § 903.10.

903.7 In Land Bay K.1, any new construction shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line as it exists as of January 1, 2015.

903.8 In the WR-3 zone, no less than seventy percent (70%) of the façade of buildings located along Fern Street, Elder Street, Dahlia Street, Aspen Street, and Georgia Avenue shall be built to the property lines abutting the subject street right-of-way to a height of not less than twenty-five feet (25 ft.), except that:

(a) The requirements of this subsection shall not apply to the portions of building façades that front on a plaza established pursuant to Subtitle K § 903.10;

(b) The requirements of this subsection shall not apply to portions of building façades that are set back from the right-of-way for the purpose of preserving existing mature trees and for which trees the applicant for a building permit shall provide a permanent plan, approved by the Urban Forestry Administration, for tree maintenance and replacement;

(c) The height requirement of this subsection may be reduced to eighteen feet (18 ft.) if the roof immediately above the eighteen (18)-foot façade is occupied by a public or private outdoor terrace; and

(d) Relief from the build-to requirements of this subsection may be granted by the Board of Zoning Adjustment as a special exception subject to the requirements of Subtitle X, Chapter 9, provided that the applicant adequately demonstrates that:

(1) The proposed design meets the intent of creating a streetwall along the street in question; and

(2) The area set back from the property line does not unduly restrict access by the public by a gate, fence, wall, or other barrier.

903.9 In the WR-3 zone, all portions of the ground floor devoted to non-residential uses shall be subject to the following requirements:

(a) The minimum floor-to-ceiling clear height shall be fourteen feet (14 ft.), except for those spaces within the ground floor of any building devoted to the following uses: mechanical, electrical, and plumbing; storage; fire control; loading; parking; and retail corridors and service corridors;

(b) The surface of any streetwall or wall fronting on a plaza shall devote at least fifty percent (50%) of the surface area at the ground floor to display windows with clear glass or pedestrian entrances;

(c) Each non-residential use with frontage on a public street or plaza shall have an individual public pedestrian entrance directly accessible from a sidewalk or plaza upon which the use has frontage; and

(d) Pedestrian entrances or areas where future entrances to non-residential uses could be installed without structural changes shall be located no more than an average distance of forty feet (40 ft.) apart on all facades fronting a public street or plaza.

903.10 In Land Bay F, a plaza shall be provided which meets the criteria of this subsection:

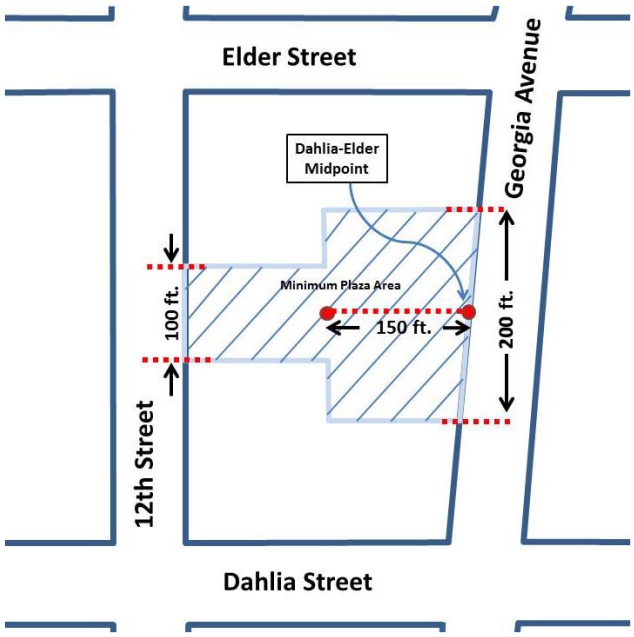
(a) No part of a building above grade shall cover the areas described below, as illustrated in the diagram below. The resulting plaza is the minimum open space, and building façades need not front immediately upon or follow the boundaries of the prescribed open space:

(1) The central two hundred feet (200 ft.) of the frontage on Georgia Avenue between Dahlia and Elder Streets to a depth of one hundred fifty feet (150 ft.) west of Georgia Avenue, with the depth

measured at the midpoint between Dahlia and Elder Streets and drawn parallel to Dahlia and Elder Streets; and

(2) The central one hundred feet (100 ft.) of frontage on 12th Street between Dahlia and Elder Streets and extending east to connect to the open space described in Subtitle K § 903.10(a)(1); and

FIGURE K § 903.10(a)(2): ILLUSTRATION OF WR-3 OPEN SPACE



(b) The open space described in Subtitle K § 903.10(a) shall constitute a plaza that must:

(1) Be open to the sky;

(2) Be open and available to the general public on a continuous basis;

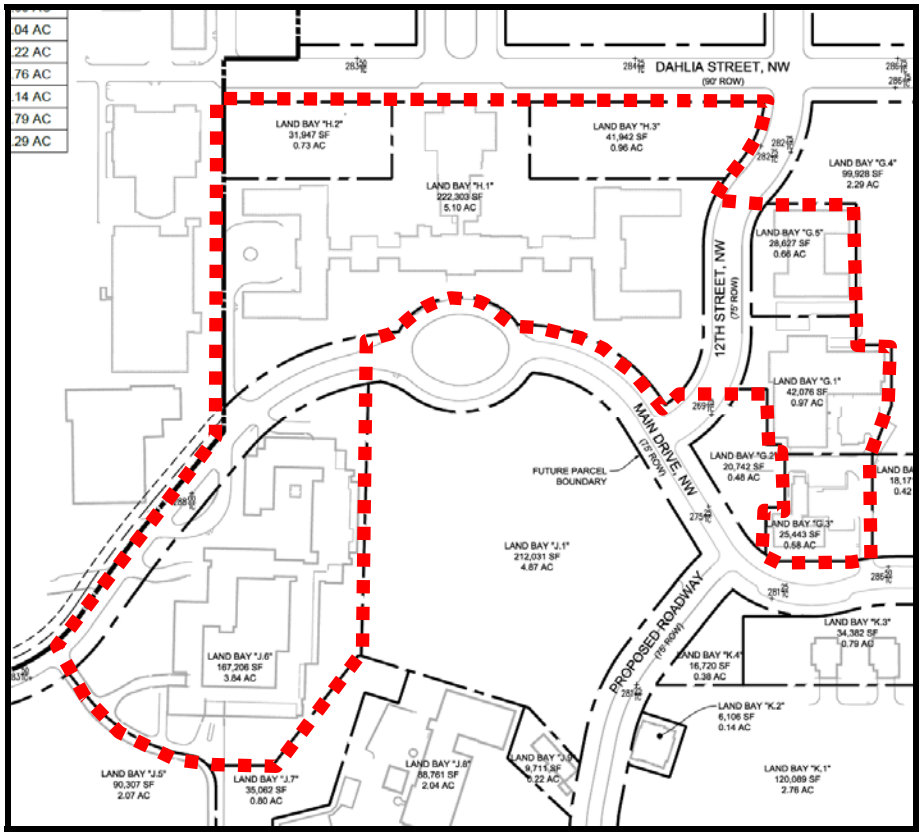
(3) Be lighted and landscaped;

(4) Preserve at least ninety percent (90%) of the existing mature, healthy trees; and

(5) Provide at least fifty percent (50%) pervious surface, including any water feature.

904 WR-4 ZONE

FIGURE K § 904: ILLUSTRATION OF BOUNDARIES OF THE WR-4 ZONE



904.1 The WR-4 zone is intended to:

(a) Provide for moderate-density commercial and residential development that adaptively reuses and sensitively develops proximate to historic resources; and

(b) Maintain the campus-like setting of Building 1 and other buildings through preservation of certain nearby open spaces.

904.2 The development standards for the WR-4 zone are set forth in the following table:

TABLE K § 904.2: WR-4 DEVELOPMENT STANDARDS

WR-4					
Sub-Area	**Building Height (max.)**	**Stories (max.)**	**Floor Area Ratio (max.)**	**Lot Occupancy (max.)**	**Setbacks**
Land Bay H.1	40 ft.	3	1.0	60%	See § 904.3
Land Bays H.2 and H.3	40 ft.	3	2.0	N/A	See § 904.3
Land Bays G.1 and G.5	50 ft.	4	1.75	75%	n/a
Land Bay G.3	40 ft.	4	0.9	60%	See § 904.4
Land Bay J.6	55 ft.	4	1.15	50%	n/a

904.3 In Land Bays H.1, H.2, and H.3, no building or portion of a building shall be constructed east of the easternmost point of existing Building 1.

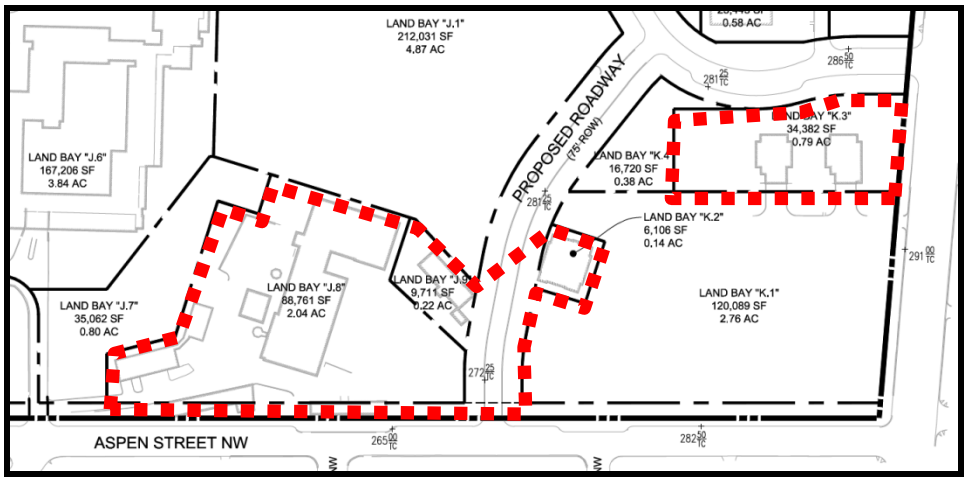
904.4 In Land Bay G.3, no building or portion of a building shall be constructed south of the southernmost point of existing Building 12.

904.5 In Land Bay H.3, no surface parking lot is permitted east of the easternmost point of existing Building 1.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

905 WR-5 ZONE

FIGURE K § 905: ILLUSTRATION OF BOUNDARIES OF THE WR-5 ZONE



905.1 The WR-5 zone is intended to:

(a) Provide moderate-density residential and commercial development that also supports arts and cultural uses; and

(b) Encourage continuous east/west green connections and passive and active recreation opportunities.

905.2 The development standards for the WR-5 zone are set forth in the following table:

TABLE K § 905.2: WR-5 DEVELOPMENT STANDARDS

WR-5					
Sub-Area	**Building Height (max.)**	**Stories (max.)**	**FAR (max.)**	**Lot Occupancy (max.)**	**Setbacks**
Land Bay K.3	50 ft.	3	1.0	35%	See § 905.3
Land Bays J.9 and K.2	35 ft.	2	0.75	75%	n/a
Land Bay J.8	35 ft.	2	0.4	40%	See § 905.4

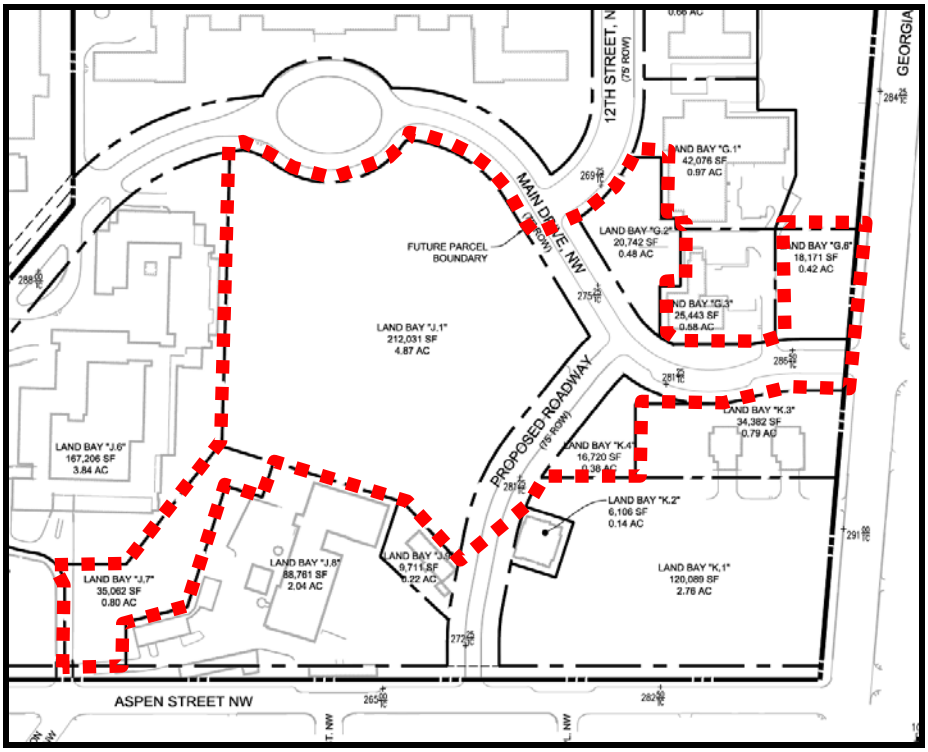
905.3 In Land Bay K.3, no building or portion of a building shall be constructed north of the northernmost point of existing Buildings 8 or 9, or east of the easternmost portion of Building 8.

905.4 In Land Bay J.8, any new construction shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line as it exists on January 1, 2015. Existing buildings may be renovated and adaptively reused, even if within the setback area.

905.5 For new construction in Land Bay J.8, all portions of the ground floor devoted to non-residential uses shall have a minimum floor-to-ceiling height of fourteen feet (14 ft.), except for those spaces within the ground floor of any building devoted to the following uses: mechanical, electrical, and plumbing; storage; fire control; loading; parking; and retail and service corridors.

906 WR-6 ZONE

FIGURE K § 906: ILLUSTRATION OF BOUNDARIES OF THE WR-6 ZONE



906.1 The WR-6 zone is intended to:

(a) Preserve the unique character of the Great Lawn and maintain the campus atmosphere at the heart of the historic Walter Reed campus, including the landscaped entrances to the WR zone around Main Drive and East and West Cameron Drives;

(b) Assure that the Great Lawn's permanent use is for its primary natural function as well as for enjoyment by the general public; and

(c) Encourage continuous east/west green connections.

906.2 The development standards for the WR-6 zone are set forth in the following table:

TABLE K § 906.2: WR-6 DEVELOPMENT STANDARDS

WR-6	
Sub-Area	**FAR (max.)**
Land Bays J.1, J.7, G.2, G.6, and K.4	0

906.3 In the WR-6 zone, no new surface parking lots are permitted.

906.4 Notwithstanding the restriction of Subtitle K § 906.2, temporary structures may be erected to house any temporary use, subject to the temporary use provisions of Subtitle K § 922.6.

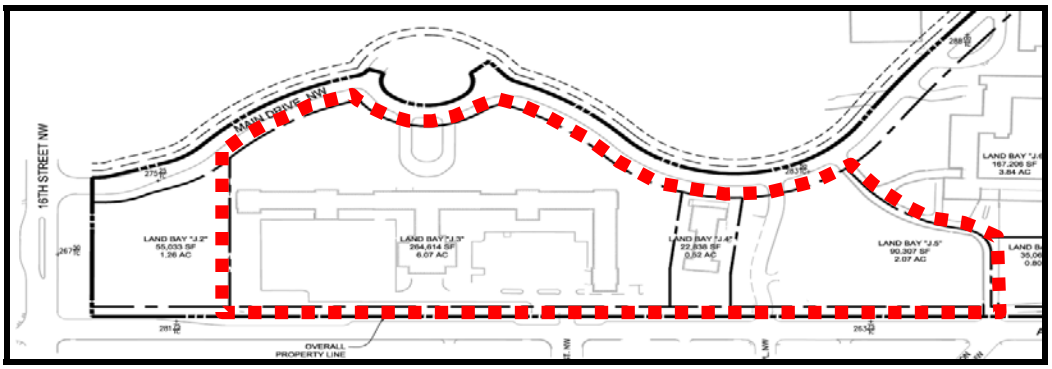
906.5 Notwithstanding the restriction of Subtitle K § 906.2, up to five (5) permanent structures, of no more than four hundred square feet (400 sq. ft.) each, may be constructed for the general purpose of food and beverage sales, or other retail or service use ancillary to the role of the WR-6 as an open space zone. This section shall not imply approval by the Historic Preservation Review Board or any other permitting authority.

906.6 In Land Bay J.7, a FAR of 0.5 is permitted for a Parks and Recreation use, or a similar use operated by a non-governmental entity.

906.7 In Land Bay J.7, any new construction built pursuant to Subtitle K § 906.5 shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line as it exists on January 1, 2015.

907 WR-7 ZONE

FIGURE K § 907: ILLUSTRATION OF BOUNDARIES OF THE WR-7 ZONE



907.1 The WR-7 zone is intended to:

(a) Provide medium-density residential development that is sensitive to existing development on the south side of Aspen Street;

(b) Encourage adaptive reuse of existing buildings to accommodate, among other uses, institutions; and

(c) Encourage open and green space suitable for sustainable infrastructure and amenities as appropriate.

907.2 The development standards for the WR-7 zone are set forth in the following table:

TABLE K § 907.2: WR-7 DEVELOPMENT STANDARDS

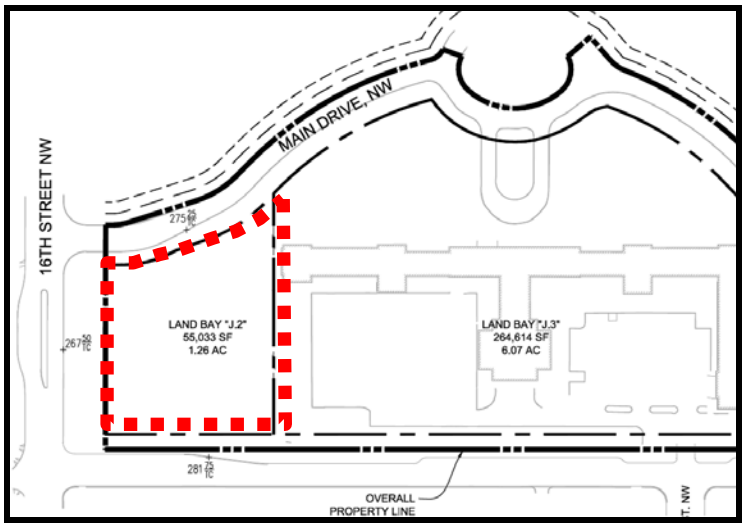
WR-7					
Sub-Area	**Building Height (max.)**	**Stories (max.)**	**FAR (max.)**	**Lot Occupancy (max.)**	**Setbacks**
Land Bay J.5	55 ft.	5	1.25	50%	See § 907.3
Land Bay J.4	25 ft.	2	1.0	50%	See § 907.3
Land Bay J.3	45 ft.	4	0.75	40%	See § 907.3 See § 907.4

907.3 In the WR-7 zone, any new construction shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line as it exists on January 1, 2015.

907.4 In Land Bay J.3, no building or portion of a building shall be constructed north of the northernmost point of existing Building 11.

908 WR-8 ZONE

FIGURE K § 908: ILLUSTRATION OF BOUNDARIES OF THE WR-8 ZONE



908.1 The WR-8 zone is intended to:

(a) Provide medium-density residential development that is sensitive to existing development on the south side of Aspen Street; and

(b) Encourage open and green space suitable for sustainable infrastructure and amenities as appropriate.

908.2 The development standards for the WR-8 zone are set forth in the following table:

TABLE K § 908.2: WR-8 DEVELOPMENT STANDARDS

WR-8					
Sub-Area	**Building Height (max.)**	**Stories (max.)**	**FAR (max.)**	**Lot Occupancy (max.)**	**Setbacks**
Land Bay J.2	See § 3508.3	5	3.25	80%	See § 908.4

908.3 In the WR-8 zone, the maximum height of buildings or structures shall be as follows:

(a) Within twenty-five feet (25 ft.) of the setback specified in Subtitle K § 908.4, fifty feet (50 ft.) above the finished grade at the middle of the Aspen Street building façade; and

(b) Elsewhere, sixty-five feet (65 ft.) as measured from whichever measuring point is chosen for the building for the purpose of measuring height.

908.4 In the WR-8 zone, any new construction shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line, as it exists on January 1, 2015.

909 HEIGHT AND PENTHOUSES (WR)

909.1 In the WR zone, the point chosen for measurement of height shall conform to the other provisions of this title, except that the point may be on either a public or private street.

909.2 For the purposes of applying general zoning requirements of this title:

(a) The WR-1, WR-7, and WR-8 zones shall be considered Residence zones; and

(b) The WR-2, WR-3, WR-4, WR-5, and WR-6 zones shall be considered Mixed Use or Commercial Zones.

909.3 Penthouses shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in Subtitle C § 909.4.

909.4 A penthouse constructed in accordance with the provisions of Subtitle C, Chapter 15 may be erected to a height in excess of that permitted, but shall not exceed the height, as measured from the surface of the roof upon which the penthouse sits, in the following table:

TABLE K § 909.4: TABLE OF PENTHOUSE STANDARDS

ZONE DISTRICT	Maximum Penthouse Height (Feet)	Maximum Penthouse Stories
WR-1, WR-6	Pursuant to Subtitle C § 1500.4	Pursuant to Subtitle C § 1500.4
WR-4, WR-5, WR-7	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
WR-8	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
WR-3	20 ft.	1; second story permitted for penthouse mechanical space
WR-2	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

910 STREETSCAPE STANDARDS (WR)

910.1 In all WR zones, all buildings are subject to the following design requirements:

(a) Façades that front on public or private streets or plazas shall not have blank walls uninterrupted for more than ten feet (10 ft.) by doors, windows, or architectural features that modulate and articulate the building wall planes. Projections permitted into the public right-of-way by other regulations shall satisfy this requirement; and

(b) Security grilles shall have no less than seventy percent (70%) transparency.

911 USE PERMISSIONS (WR)

911.1 The uses in this section shall be permitted as a matter of right in the WR-1 zone, subject to any applicable conditions.

(a) Agriculture, large and residential;

(b) Antennas subject to the conditions of Subtitle K § 912.2;

(c) Arts, design, and creation subject to the conditions of Subtitle K § 912.3;

(d) Basic utilities;

(e) Chanceries;

(f) Daytime care subject to the conditions of Subtitle K § 912.5;

(g) Emergency shelter subject to the conditions of Subtitle K § 912.4;

(h) Institutional, religious-based;

(i) Parking subject to the conditions of Subtitle K § 912.9;

(j) Parks and recreation;

(k) Residential;

(l) Retail subject to the conditions of Subtitle K § 912.10; and

(m) Transportation infrastructure.

911.2 The uses in this section shall be permitted as a matter-of-right in the WR-2, WR-3, WR-4 and WR-5 zones, subject to any applicable conditions:

(a) Agriculture, large and residential;

(b) Antennas subject to the conditions of Subtitle K § 912.2;

(c) Arts, design, and creation;

(d) Basic utilities;

(e) Chanceries;

(f) Daytime care subject to the conditions of Subtitle K § 912.6;

(g) Eating and drinking establishments subject to the conditions of Subtitle K § 912.7;

(h) Education, college/university;

(i) Education, private;

(j) Education, public;

(k) Emergency shelter subject to the conditions of Subtitle K § 912.4;

(l) Entertainment, assembly, and performing arts;

(m) Government, local;

(n) Institutional, general;

(o) Institutional, religious-based;

(p) Lodging;

(q) Medical care;

(r) Office;

(s) Parking subject to the conditions of Subtitle K § 912.9;

(t) Parks and recreation;

(u) Residential;

(v) Retail;

(w) Service, financial;

(x) Service, general subject to the conditions of Subtitle K § 912.11; and

(y) Transportation infrastructure.

911.3 The uses in this section shall be permitted as a matter-of-right in the WR-6 zone, subject to any applicable conditions:

(a) Agriculture, large and residential;

(b) Arts, design, and creation;

(c) Basic utilities;

(d) Eating and drinking establishments;

(e) Entertainment, assembly, and performing arts;

(f) Institutional, religious-based;

(g) Parks and recreation;

(h) Retail; and

(i) Transportation infrastructure.

911.4 The uses in this section shall be permitted as a matter of right in the WR-7 zone, subject to any applicable conditions:

(a) Agriculture, large and residential;

(b) Antennas subject to the conditions of Subtitle K § 912.2;

(c) Arts, design, and creation;

(d) Basic utilities;

(e) Chanceries;

(f) Daytime care subject to the conditions of Subtitle K § 912.6;

(g) Education, college/university subject to the conditions of Subtitle K § 912.8;

(h) Education, private, subject to the conditions of Subtitle K § 912.8;

(i) Education, public, subject to the conditions of Subtitle K § 912.8;

(j) Emergency shelter subject to the conditions of Subtitle K § 912.4;

(k) Institutional, general;

(l) Institutional, religious-based;

(m) Medical care;

(n) Office;

(o) Parking subject to the conditions of Subtitle K § 912.9;

(p) Parks and recreation;

(q) Residential;

(r) Retail subject to the conditions of Subtitle K § 912.10; and

(s) Transportation infrastructure.

911.5 The uses in this section shall be permitted as a matter of right in the WR-8 zone, subject to any applicable conditions:

(a) Agriculture, large and residential;

(b) Antennas subject to the conditions of Subtitle K § 912.2;

(c) Arts, design, and creation subject to the conditions of Subtitle K § 912.3;

(d) Basic utilities;

(e) Chanceries;

(f) Daytime care subject to the conditions of Subtitle K § 912.6;

(g) Emergency shelter subject to the conditions of Subtitle K § 912.4;

(h) Institutional, general;

(i) Institutional, religious-based;

(j) Medical care;

(k) Parking subject to the conditions of Subtitle K § 912.9;

(l) Parks and recreation;

(m) Residential;

(n) Retail subject to the conditions of Subtitle K § 912.10; and

(o) Transportation infrastructure.

911.6 For the purposes of the WR zone, a community garden or playground managed by a non-profit organization or homeowners' association shall be considered a use in the parks and recreation use group provided the community garden or playground is open to the public.

911.7 A home occupation use, including a business, profession, or other economic activity, which is conducted full-time or part-time in a dwelling unit that serves as the principal residence of the practitioner, shall be permitted subject to the following conditions:

(a) The home occupation use shall comply with the requirements of Subtitle U § 251;

(b) The home occupation use is not within a dwelling unit in an accessory building; and

(c) A home occupation use not meeting all of the above conditions may be permitted as a special exception by the Board of Zoning Adjustment under Subtitle X, Chapter 9 of this title.

912 CONDITIONAL USES (WR)

912.1 The following conditions shall apply as required in Subtitle K § 911.

912.2 Antennas shall be permitted subject to the standards and procedures that apply to the particular class of antenna in Subtitle C, Chapter 13 of this title, which shall be applied to the WR zone as follows:

(a) The WR-1, WR-7, and WR-8 zones shall be considered Residential/R zones; and

(b) The WR-2, WR-3, WR-4, WR-5, and WR-6 zones shall be considered as MU-4 zones.

912.3 An arts, design, and creation use shall be permitted as a matter of right if it is clearly incidental to and accessory to the primary residential use, and subject to the following:

(a) The practitioner of the arts, design, and creation use must reside on the premises;

(b) All operations and storage of materials shall occur inside the building;

(c) Incidental sales of art work or other craft produced on site shall be permitted within the dwelling; and

(d) The practitioner may teach the art to one (1) or more apprentices.

912.4 An emergency shelter for one (1) to four (4) persons shall be a matter-of-right use. An emergency shelter for more than four (4) persons may be permitted as a special exception pursuant to Subtitle K § 913.6.

912.5 In the WR-1 zone, daytime care uses shall be permitted as a matter of right subject to the following conditions:

(a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and

(b) The use otherwise shall meet the conditions of a home occupation.

912.6 Daytime care uses shall be permitted as a matter of right subject to the following conditions in the WR-2, WR-3, WR-4, WR-5, WR-7, and WR-8 zones:

(a) A daytime care use is permitted as a matter of right for no more than twenty-five (25) persons not including resident supervisors or staff and their families;

(b) Any outdoor play area shall be located on the same lot as the daytime care use; and

(c) Daytime care uses not meeting the above conditions may be permitted by special exception subject to Subtitle K § 913.2(c) and the special exception criteria of Subtitle X, Chapter 9.

912.7 All eating and drinking establishment uses shall be permitted as a matter of right except that:

(a) A drive-through shall not be permitted; and

(b) Fast food establishments and a fast food establishment that meets the definition of a food delivery services may be permitted by special

exception pursuant to Subtitle K § 913.2(c) and if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9.

912.8 Education (public, private, college/university) uses shall be permitted in the WR-7 zone only on Land Bay J.3.

912.9 Parking shall be permitted as a matter of right provided that all off-street parking is provided in compliance with the provisions of Subtitle K § 915;

912.10 A sale in the nature of a yard sale, garage sale, or home sales party may be held at a dwelling unit at most four (4) times during a twelve (12) month period.

912.11 Service, general uses shall be permitted as a matter of right provided that a laundry or dry cleaning facility shall not exceed two thousand five hundred square feet (2,500 sq. ft.) of gross floor area.

913 SPECIAL EXCEPTION USES (WR)

913.1 The following uses shall be permitted in the WR-1 zone if approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9 and subject to the applicable provisions of each section:

(a) Community-based institutional facilities (CBIF) for one (1) to twenty (20) persons, not including resident supervisors or staff and their families, subject to the following conditions:

(1) There shall be no other property containing a CBIF for seven (7) or more persons in the same square;

(2) There shall be no other property containing a CBIF for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the subject property;

(3) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

(4) The proposed facility shall meet all applicable code and licensing requirements;

(5) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area; and

(6) The Board of Zoning Adjustment may approve more than one (1) community-based institutional facility in a square or within five hundred feet (500 ft.) only when the Board finds that the

cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations; and

(b) Emergency shelter use for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the following conditions:

(1) There shall be no other property containing an emergency shelter for seven (7) or more persons either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the property;

(2) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

(3) The proposed facility shall meet all applicable code and licensing requirements;

(4) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area;

(5) The Board of Zoning Adjustment may approve more than one (1) emergency shelter in a square or within five hundred feet (500 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations; and

(6) The Board of Zoning Adjustment may approve a facility for more than twenty-five (25) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District.

913.2 The following uses shall be permitted as a special exception WR-2, WR-3, WR-4, and WR-5 zones if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to any applicable provisions of each section:

(a) Animal sales, care, and boarding shall be subject to the following conditions:

(1) The use shall produce no noise or odor objectionable to nearby properties, including residential units located in the same building as the use, and shall utilize industry standard sound-absorbing

materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping;

(2) The applicant shall demonstrate that the use will comply with the following conditions, and any Board of Zoning Adjustment approval shall be subject to the use's continued compliance with these standards:

(A) The use shall take place entirely within an enclosed building;

(B) The windows and doors of the space devoted to the animal boarding use shall be kept closed;

(C) No animals shall be permitted in an external yard on the premises;

(D) Animal waste shall be placed in closed waste-disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly; and

(E) Odors shall be controlled by means of an air filtration system (for example, High Efficiency Particulate Air "HEPA" filtration) or an equivalently effective odor control system;

(F) A veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808(h)(1); and

(3) The Board of Zoning Adjustment may impose additional requirements pertaining to the location of buildings or other structures; entrances and exits; buffers, barriers, and fencing; soundproofing; odor control; waste storage and removal (including frequency); the species and/or number and/or breeds of animals; or other requirements, as the Board deems necessary to protect adjacent or nearby property;

(b) Community-based institutional facilities (CBIF) for one (1) to twenty (20) persons, not including resident supervisors or staff and their families, subject to the conditions of Subtitle K § 913.1(a);

(c) Daytime care uses not meeting the conditions of Subtitle K § 912.6 shall be permitted by special exception, subject to the following conditions:

(1) The facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance; and

(2) Any off-site play area shall be located so as to not endanger individuals traveling between the play area and the center or facility;

(d) Food establishment and a fast food establishment that meets the definition of a food delivery services shall be permitted by special exception, subject to the following conditions:

(1) No part of a lot on which a fast food establishment or food delivery business is located shall be within twenty-five feet (25 ft.) of a residential zone, including WR-1, WR-7, and WR-8, unless separated therefrom by a street or alley;

(2) Any outdoor refuse dumpsters shall be housed in a three (3)-sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater, with the entrance to the enclosure including an opaque gate;

(3) The use shall not include a drive-through;

(4) There shall be no customer entrance in the side or rear of a building that faces an alley containing a zone boundary line for a residential zone;

(5) There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site;

(6) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation; and

(7) The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions;

(e) Emergency shelter use for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the conditions of Subtitle K § 913.1(b); and

(f) All motor vehicle related uses are prohibited except motor vehicle sales, which may be permitted as a special exception subject to the following conditions:

(1) There shall be no outdoor storage of vehicles;

(2) The surface of any streetwall or wall fronting on a plaza shall devote at least fifty percent (50%) of the surface area at the ground floor to display windows with clear glass or pedestrian entrances;

(3) Vehicular access into the showroom shall be through a moveable glass façade, or through an internal ramp or elevator from an underground garage;

(4) If vehicular access into the showroom is from the street through a moveable façade, the applicant shall submit a plan showing the area external to the building, including landscaping, hardscape, the method by which vehicles shall be transferred into the showroom, and where any necessary delivery trucks shall unload and park;

(5) The Board of Zoning Adjustment shall find that the loading activities shall not unduly impact pedestrian movement outside the building, or negatively impact the streetscape, including street trees and street furniture. If the use fronts on a public street, approval under this section shall not imply approval by the Public Space Committee or any other permitting authority;

(6) Any repair of vehicles shall occur inside the building in a location not visible from the right-of-way; and

(7) The Board of Zoning Adjustment shall find that the use does not impair the overall pedestrian or retail environment of the neighborhood.

913.3 The following uses shall be permitted as a special exception WR-7 and WR-8 zones if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to any applicable provisions of each section:

(a) Daytime care uses not meeting the conditions of Subtitle K § 912.6 shall be permitted by special exception, subject to the following conditions:

(1) The facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance; and

(2) Any off-site play area shall be located so as to not endanger individuals traveling between the play area and the center or facility; and

(b) Emergency shelter use for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the conditions of Subtitle K § 913.1(b).

914 PROHIBITED USES (WR)

914.1 The following uses are prohibited in the WR zone as either a principal or accessory uses:

(a) Drive-through or drive-in, as either a principal or accessory use;

(b) Any establishment that has as its principal use the administration of massages; and

(c) Self-service storage establishment that provides separate storage areas for individual or business uses.

914.2 Any use not otherwise permitted by Subtitle K §§ 911, 912, or 913, or permitted as an accessory or home occupation in this chapter shall not be permitted.

915 VEHICLE PARKING (WR)

915.1 Except as noted in this section, the provisions and requirements of Subtitle C, Chapter 7, Vehicle Parking, shall not apply, and the following provisions of this section shall apply.

915.2 The cumulative total of all automobile parking spaces, including below-grade, surface, and above-grade structured parking, shall not exceed a total of three thousand four hundred (3,400) parking spaces.

915.3 Each application to the Department of Consumer and Regulatory Affairs for a development that includes parking shall provide an accounting of the total number of parking spaces within the WR zone which count towards the parking space limit of Subtitle K § 915.2.

915.4 Parallel parking spaces on a private street shall not count toward the limit of Subtitle K § 915.2, provided they are open to use by the public and not reserved for a particular or private use.

915.5 Parking spaces dedicated for use by a car-sharing service or dedicated for the charging of electric vehicles shall not count toward the limit Subtitle K § 915.2.

915.6 Additional parking spaces beyond the limit of Subtitle K § 915.2 shall be permitted by special exception by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9 and provided that the applicant addresses compliance with the following standards:

(a) The application shall include:

(1) A detailed accounting of the existing and proposed number and locations of parking spaces provided pursuant to Subtitle K § 915.2;

(2) A traffic study assessing the impacts of the proposed additional parking spaces that would, at a minimum, include an updated trip generation study, parking occupancy study for the entire site, and impacts on local traffic patterns, for referral to and comment by the District Department of Transportation (DDOT). The parameters of the analysis shall be outlined by DDOT prior to the application; and

(3) A transportation demand management (TDM) plan, for referral to and comment by DDOT. The parameters of the analysis shall be outlined by DDOT prior to the application; and

(b) Vehicular access and egress to the additional parking will be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions.

915.7 For any application pursuant to Subtitle K § 915.5:

(a) The Board of Zoning Adjustment shall judge, balance, and reconcile the need for additional on-site parking against any adverse impacts the presence of the parking will have on traffic, and the aesthetics and development of the surrounding neighborhood; and

(b) The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the WR zone.

915.8 Parking spaces need not be located on the same lot as the building or buildings they are intended to serve, but must be located within the WR zone.

915.9 Parking spaces may be shared among more than one (1) use, whether the uses are on the same lot or on separate lots. A parking space that is shared among more than one (1) use shall be subject to the following conditions:

(a) The parking space and the uses shall all be within the WR zone;

(b) The parking space shall not serve as required parking for any other use during the days and times each use the space serves is in operation;

(c) A written agreement assigning the parking space to each use, stating compliance with Subtitle K § 915.9(b), shall be signed by the owner of the parking space and the owner of each use requiring the parking space;

(d) The final, original written agreement shall be filed with the Zoning Administrator prior to the issuance of the first certificate of occupancy for the use;

(e) Any amendment or successor agreement must be filed no later than ten (10) days following execution by the parties; and

(f) The Zoning Administrator shall maintain a file of all written agreements and amendments for each lot containing a parking space shared between multiple uses and for the lots sharing the parking space.

915.10 Parking spaces shall not be located between a street right-of-way line and the more restrictive of either a building façade or a line extending from and parallel to a building façade. A building used solely as a parking attendant shelter shall not trigger this restriction. Notwithstanding the restriction of this subsection, the existing surface parking lot south of Building 11 may remain, but shall not be expanded in size.

915.11 Parking spaces within an above-grade structure shall be lined with preferred uses on the ground and second floors to a depth of fifteen feet (15 ft.) minimum, except the portions of the building façade used for vehicular, bicycle, or pedestrian access to the parking area. For the purposes of this subsection, preferred uses shall include any use from the arts design and creation; eating and drinking establishments; office; residential; retail; service, general; and service, financial use groups.

915.12 All parking spaces, other than mechanical parking spaces, shall be accessible at all times from a driveway accessing either an improved street or an improved alley or alley system with a minimum width of ten feet (10 ft.). Parking spaces provided within or accessed by a mechanized parking system need not meet the accessibility requirement of this subsection as long as the mechanized parking system does.

915.13 New parking spaces and drive aisles shall be designed in accordance with the standards of Subtitle C §§ 710 through 716.

915.14 Approval of a driveway under this chapter shall not be interpreted to imply permission for a curb cut in public space. All curb cuts in public space shall obtain all necessary approvals and permissions.

915.15 All access to parking facilities, whether from a public or private right-of-way, shall meet DDOT and Public Space Committee standards.

916 BICYCLE PARKING (WR)

916.1 Bicycle parking shall be provided in accordance with the requirements of Subtitle C, Chapter 8, and in accordance with Subtitle K § 916.2.

916.2 Long-term bicycle parking spaces shall meet the following additional requirements:

(a) All required long-term bicycle parking spaces shall be located within the building of the use requiring them;

(b) Except as noted below, required long-term bicycle parking spaces shall be located no lower than the first cellar level or the first complete parking level below grade, and no higher than the first above-grade level. Spaces shall be available to employees, residents, and other building occupants; and

(c) If vehicular parking is segregated on different levels of a parking garage based on use, required long-term bicycle parking spaces may be located on the garage level dedicated to the use which generated the bicycle parking requirement. However, in no instance shall required long-term bicycle spaces be located lower than the second parking level below grade or the second parking level above grade;

917 LOADING (WR)

917.1 Loading shall be provided in accordance with the requirements of Subtitle C, Chapter 9 and the provisions of this section.

917.2 Access to loading and service/delivery space shall not be required to meet the requirement of Subtitle C § 904.5, which requires access be from an open or approved alley, where one exists.

917.3 All access to loading facilities, whether from a public or private right of way, shall meet DDOT and Public Space Committee standards.

917.4 In addition to the loading screening and lighting requirements of Subtitle C § 908, any loading berths or service/delivery spaces that are not enclosed within a building, if potentially visible from a public right-of-way, shall have, in addition to the wall required by this subsection, a screen of evergreen trees, planted at a distance of no more than fifteen feet (15 ft.) on center, of a species that at maturity would have a typical height of at least fifteen feet (15 ft.).

918 AFFORDABLE HOUSING (WR)

918.1 Affordable housing shall be provided as described in this section. The provisions of Subtitle C, Chapter 10 shall not apply, with the exception of the relevant penthouse habitable space affordable housing provisions pursuant to Subtitle C § 1500.11.

918.2 The purposes of this section are to:

(a) Ensure the provision of a significant amount of affordable housing, including for very low-income households; and

(b) Ensure that the affordable housing is distributed throughout the WR zone.

918.3 The FAR, lot occupancy, and height listed in the Development Standards for each WR zone shall serve as the maximum permitted density and building envelopes for buildings and structures, including for the provision of affordable units.

918.4 For the entire WR zone, no less than four hundred and thirty-two (432) units of affordable housing shall be subject to affordable housing covenants that collectively result in compliance with Subtitle K §§ 918.5 and 918.6.

918.5 Of the four hundred and thirty-two (432) units minimum:

(a) No less than one hundred and fourteen (114) rental units shall be reserved for and provided at rents affordable to households earning thirty percent (30%) or less of the Area Median Income (AMI);

(b) No less than one hundred and thirty-nine (139) units shall be reserved for and provided at rents or sales prices affordable to households earning fifty percent (50%) of the AMI or less; and

(c) No less than one hundred and seventy-nine (179) units shall be reserved for and provided at rents or sales prices affordable to households earning eighty percent (80%) of the AMI or less.

918.6 A minimum amount of affordable units shall be provided in each zone, and in each multifamily building, according to the following table. The remaining affordable units may be located anywhere in the WR zone.

TABLE K § 918.6: AFFORDABLE UNIT REQUIREMENTS

	Column A	**Column B**
Zone	**Minimum Percentage of Residential Units to be Provided as Affordable Units in the Zone**	**Of the Units Prescribed in Column A, the Minimum Percentage to be Provided in Each Multifamily Building in the Zone**
WR-1	8%	n/a
WR-2	8%	20%
WR-3	8%	12.5%
WR-4	8%	20%
WR-5	8%	25%
WR-7	8%	25%
WR-8	8%	25%

918.7 At the expiration of the affordability control period established by its affordable housing covenant, each multifamily building within the WR-2 through WR-8 zones shall devote no less than eight percent (8%) of its units to affordable units,

which shall remain affordable in accordance with Subtitle K § 918.8 for so long as the multifamily building exists.

918.8 At the expiration of the affordability control period established by its affordable housing covenant, each multifamily building within the WR-2 through WR-8 zones shall set aside fifty percent (50%) of affordable units for households earning fifty percent (50%) of the AMI or less and fifty percent (50%) of affordable units shall for households earning eighty percent (80%) of the AMI or less. The first affordable unit that becomes available after the expiration of the affordability control period and each additional odd number unit shall be set aside for households earning fifty percent (50%) of the AMI or less.

918.9 At the expiration of all affordability control periods established by affordable housing covenants recorded against properties in the WR-1 zone, no less than eight percent (8%) of all units within the WR-1 zone shall be devoted to affordable units, which shall remain affordable in accordance with Subtitle K § 918.10 for so long as the units exists.

918.10 At the expiration of all affordability control periods established by affordable housing covenants recorded against properties in the WR-1 zone, fifty percent (50%) of affordable units within the WR-1 zone shall be set-aside for households earning fifty percent (50%) of the AMI or less and fifty percent (50%) of affordable units shall be set aside for households earning eighty percent (80%) of the AMI or less. The first affordable unit that becomes available after the expiration of the affordability control period and each additional odd number unit shall be set aside for households earning fifty percent (50%) of the AMI or less.

918.11 In the WR zone, each application for a building permit for a residential use shall include in tabular and map format a description of which affordable units have been provided to date and where, which affordable units have yet to be provided and where they are anticipated to be provided, and how the provisions of this section are being met.

918.12 Pursuant to Subtitle X, Chapter 9, the Board of Zoning Adjustment may hear and decide any requests for relief from Subtitle K §§ 918.5 and 918.6, subject to the application demonstrating that the purposes of Subtitle K § 918.2 would still be met.

918.13 Affordable units, in addition to the other requirements of this section, arising from penthouse habitable space pursuant to Subtitle C §§ 411.16 and 411.17 shall be provided in accordance with the relevant provisions of Subtitle C, Chapter 10 for residential penthouse habitable space or Subtitle C § 414 for non-residential penthouse space, expect that such units may be located anywhere within the are covered by any WR zone.

919 GREEN AREA RATIO (WR)

919.1 In the WR-2, WR-3, WR-4, WR-5, WR-7, and WR-8 zones, the GAR requirement is four-tenths (0.4), pursuant to Subtitle C, Chapter 6.

920 PLANNED UNIT DEVELOPMENTS (WR)

920.1 A planned unit development (PUD) in the WR zone shall be subject to the following provisions in addition to the provisions of Subtitle X, Chapter 3 of this title:

(a) The minimum area required for a proposed PUD shall be fifteen thousand square feet (15,000 sq. ft.);

(b) In the WR-1, WR-5, WR-6, WR-7, and WR-8 zones, the height, number of stories, and FAR provided in the relevant zone's development standards table shall serve as the maximum permitted for a PUD; and

(c) In the WR-2, WR-3, and WR-4 zones, the maximum height and FAR limits for PUDs in the WR zone shall be the following:

(1) For the WR-2 zone, the limits on height, number of stories and FAR provided in the development standards table in Subtitle K § 902 may be increased by no more than ten feet (10 ft.), one (1) story, and twenty percent (20%) FAR;

(2) For the WR-3 zone, the limits on height, number of stories and FAR provided in the development standards table in Subtitle K § 903 may be increased by no more than ten feet (10 ft.), one (1) story, and twenty percent (20%) FAR; and

(3) For the WR-4 zone, the limits on height, number of stories and FAR provided in the development standards table in Subtitle K § 904 may be increased by no more than ten feet (10 ft.), one (1) story, and twenty percent (20%) FAR.

921 SPECIAL EXCEPTION RELIEF (WR)

921.1 Except for Subtitle K §§ 903.10 through 903.14 and 903.18 or as provided elsewhere in this chapter, relief from any section of this chapter may be heard and decided by the Board of Zoning Adjustment as a special exception. In addition to the general special exception criteria of Subtitle X, Chapter 9, the Board of Zoning Adjustment must find that the request for relief is consistent with the purposes of the WR zone.

TITLE 11 - ZONING

SUBTITLE U USE PERMISSIONS

TITLE 11 - ZONING U-1

SUBTITLE U USE PERMISSIONS U-1

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CHAPTER 1 USE PERMISSIONS

100 GENERAL USE PROVISION

100.1 This subtitle contains use permissions for R, RF, RA, MU, ARTS, D, and PDR zones.

100.2 Each zone category may be divided into separate use groups which include specific use limitations.

100.3 Use groups identify different zones within a zone category that share the same permissions, with or without conditions. The use groups are not interchangeable between zone categories unless stated.

100.4 The use and locations of antennas in any zones shall be governed by Subtitle C, Chapter 25.

100.5 Uses permitted within a penthouse shall be in accordance with Subtitle C § 1500.3.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

101 SPECIAL EXCEPTIONS USE PROVISIONS

101.1 When special exception relief is permitted for a use not meeting the matter-of-right requirements for its use group, that special exception relief shall not be used to relieve a condition that prohibits a use or activity or places a limitation on a use or to permit a prohibited use or a use that is specifically identified as not permitted.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 2 USE PERMISSIONS RESIDENTIAL HOUSE (R) ZONES

200 GENERAL USE PROVISION (R)

200.1 This chapter contains uses permitted as a matter of right or as a special exception and, when applicable, uses that are not permitted in the R zones use groups.

200.2 Use groups for the R zones are as follows:

TABLE U § 200.2 R-USE GROUPS:

R-Use Group A	R-Use Group B	R-Use Group C	R-Use Group D
R-1-A, R-1-B R-6, R-7, R-8, R-9 R-11, R-12 R-14, R-15 R-19 R-21	R-2 R-10	R-3 R-13 R-17 R-20	R-16

200.3 In the R zones, non-residential business uses may be permitted as a home occupation subject to the conditions and regulations of a home occupation as defined in Subtitle U § 251. A home occupation is considered an accessory use.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

201 MATTER-OF-RIGHT USES – R-USE GROUPS A, B, C, AND D

201.1 The following uses in this section shall be permitted as a matter of right subject to any applicable conditions:

(a) A principal dwelling unit shall be permitted as follows:

(1) In the R-1-A, R-1-B, and R-16 zones, the principal dwelling unit shall be in a detached dwelling;

(2) In the R-2 and R-10 zones, the principal dwelling unit may be in either a detached or semi-detached dwelling; and

(3) In the R-3, R-13, R-17, and R-20 zones, the principal dwelling unit may be either a detached, semi-detached, or an attached dwelling;

(b) Clerical and religious group residences for no more than fifteen (15) persons;

(c) Home occupation, subject to Subtitle U § 251; and

(d) One accessory apartment shall be permitted in any single principal dwelling unit in an R zone as an accessory use and subject the conditions of Subtitle U § 253.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

202 MATTER-OF-RIGHT USES – R-USE GROUPS A, B, AND C

202.1 The following uses shall be permitted as a matter of right in R-Use Groups A, B, and C subject to any applicable conditions:

(a) Any use permitted as a matter of right in Subtitle U § 201;

(b) Accessory uses, subject to Subtitle U § 250;

(c) Agricultural – large uses, except for a private stable;

(d) Agricultural – residential uses except for a private stable;

(e) Car-sharing spaces on an unimproved lot, with no more than two (2) spaces permitted;

(f) Chancery existing on September 22, 1978; provided that the following requirements shall be met:

(1) After February 23, 1990, the continued use of the chancery shall be limited to the government that lawfully occupied the chancery on that date;

(2) No additional or accessory structure may be constructed on the lot that is occupied by the chancery;

(3) There shall be no expansion of the exterior walls, height, bulk, gross floor area, or any portion of any existing building or structure that is used as a chancery;

(4) If an existing building or structure that is used as a chancery is destroyed by fire, collapse, explosion, or act of God, the building or structure may be reconstructed provided the reconstruction shall be limited to the chancery site as it existed on February 23, 1990; and

(5) The reconstruction that is authorized by subparagraph (4) of this paragraph shall not be subject to the requirements of Subtitle C, Chapter 2;

(g) Child development/elderly development center located in a District of Columbia public school or a public recreation center operated by the

District of Columbia Government; provided, that written permission to use the premises shall have been granted by the Chancellor of the District of Columbia Public Schools or the Director of the managing government agency, respectively;

(h) Emergency shelter of not more than four (4) persons, not including resident supervisors or staff and their families;

(i) Government, local uses;

(j) Health care facility for not more than six (6) persons not including resident supervisors or staff and their families. The facility may accommodate seven (7) to eight (8) persons, not including resident supervisors or staff and their families, provided there shall be no property containing an existing health care facility for seven (7) or more persons either in the same square, or within a radius of one thousand feet (1,000 ft.) from, any portion of the subject property;

(k) Institutional, religious-based uses, but not including rescue mission or temporary revival tents;

(l) Private garage, as a principal use, designed to house no more than two (2) motor vehicles and not exceeding four hundred fifty square feet (450 sq. ft.) in area and subject to the requirements of Subtitle D, Chapter 14;

(m) Public education buildings and structures, public recreation and community centers, and public libraries subject to the development standards of Subtitle C, Chapter 16;

(n) Public schools, reuse of a former District of Columbia public school subject to the conditions of Subtitle U § 252;

(o) Temporary buildings for the construction industry that is incidental to erection of buildings or other structures permitted by this section;

(p) Temporary use of premises by fairs, circuses, or carnivals, subject to the provisions of Title 19 DCMR, Chapter 13 (Amusements, Parks, and Recreation); and

(q) Transportation infrastructure, provided the use shall be operated directly or under contract by the District government or the Washington Metropolitan Area Transit Authority.

202.2 In R-Use Group C, a corner store shall be permitted as a matter of right subject to the conditions of Subtitle U § 254.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

203 SPECIAL EXCEPTION USES – R-USE GROUPS A, B, AND C

203.1 The following uses shall be permitted as a special exception in R-Use Groups A, B, and C, if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to applicable conditions of each section:

(a) Accessory apartment that does not meet the requirements of Subtitle U § 253;

(b) Chancery not meeting the conditions for a matter-of-right use, subject to disapproval by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 2;

(c) Clerical and religious group residences in excess of fifteen (15) persons subject to the following conditions:

(1) The use shall not adversely affect the use of neighboring property; and

(2) The amount and arrangement of parking shall be determined adequate;

(d) Community center building, park, playground, swimming pool, or athletic field, operated by a local community organization or association, subject to the following conditions:

(1) The use shall not be organized for profit, but shall be organized exclusively for the promotion of the social welfare of the neighborhood in which it is proposed to be located;

(2) The use shall not include retail sales to the general public but may charge a fee to members for services, which may include refreshments;

(3) The use shall not likely become objectionable in a R zone because of noise or traffic; and

(4) The use shall be reasonably necessary or convenient to the neighborhood in which it is proposed to be located;

(e) Community-based institutional facilities subject to the following conditions:

(1) The use shall house no more than fifteen (15) persons, not including resident supervisors or staff and their families;

(2) In the R-2, R-3, R-10, R-13, and R-17 zones there shall be no other lot containing a community-based institutional facility use in the

same square or within a radius of five-hundred feet (500 ft.) from any portion of the lot; and

(3) In all other R-Use Groups A, B, and C there shall be no other lot containing a community-based institutional facility use in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the lot;

(f) Continuing care retirement community;

(g) Daytime care uses subject to the following conditions:

(1) The facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance;

(2) Any off-site play area shall be located so as not to endanger individuals traveling between the play area and the center or facility;

(3) The Board of Zoning Adjustment may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirements as it deems necessary to protect adjacent and nearby properties; and

(4) More than one (1) child/elderly development center or adult day treatment facility in a square or within one thousand feet (1,000 ft.) of another child/elderly development center or adult day treatment facility may be approved only when the Board of Zoning Adjustment finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors;

(h) Emergency shelter use for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the following conditions:

(1) In R-Use Group A, there shall be no other property containing an emergency shelter for seven (7) or more persons either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the property;

(2) In R-Use Groups B and C, there shall be no other property containing an emergency shelter for seven (7) or more persons either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the property;

(3) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

(4) The proposed facility shall meet all applicable code and licensing requirements;

(5) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area;

(6) The Board of Zoning Adjustment may approve more than one (1) emergency shelter in a square or within one thousand feet (1,000 ft.) only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations; and

(7) The Board of Zoning Adjustment may approve a facility for more than fifteen (15) persons, not including resident supervisors or staff and their families, only if the Board of Zoning Adjustment finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District;

(i) Health care facility use for nine (9) to three hundred (300) persons, not including resident supervisors or staff and their families, subject to the following conditions:

(1) In R-Use Group A, there shall be no other property containing a health care facility either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the property;

(2) In R-Use Groups B and C, there shall be no other property containing a health care facility either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the property;

(3) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

(4) The proposed facility shall meet all applicable code and licensing requirements;

(5) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area; and

(6) More than one (1) health care facility in a square or within the distances of (1) and (2) above may be approved only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations;

(j) Parking as a principal use, or accessory parking elsewhere than on the same lot as the principal use, subject to the following conditions:

(1) Parking garages shall not be permitted; parking spaces shall be in an open parking lot area or in an underground garage no portion of which, except for access, shall extend above the level of the adjacent finished grade;

(2) All parking shall meet the conditions of Subtitle C, Chapter 7;

(3) No commercial advertising signs shall be permitted outside a building, except a sign advertising the rates as required by Chapter 6 of Title 24 DCMR, Public Space and Safety;

(4) At least eighty percent (80%) of the parking surface shall be of pervious pavement;

(5) Accessory parking shall not be accessory to "parking as a principal use";

(6) The applicant shall demonstrate the following:

(A) The parking spaces shall be so located, and facilities in relation to the parking lot shall be so designed, that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions;

(B) The present character and future development of the neighborhood will not be affected adversely; and

(C) The parking is reasonably necessary and convenient to other uses in the vicinity;

(7) Parking as a principal use shall be subject to the following conditions:

(A) All parking shall be located in its entirety within two hundred feet (200 ft.) of an existing MU, NC, D, or PDR zone;

(B) The lot shall be contiguous to or separated only by an alley from a MU, NC, D, or PDR zone; and

(C) A majority of the parking spaces shall serve residential uses or short-term parking needs of retail, service, and public facility uses in the vicinity;

(8) Accessory parking shall be subject to the following condition:

(A) All parking spaces shall be located in their entirety within two hundred feet (200 ft.) of the area to which they are accessory; and

(B) All parking spaces shall be contiguous to or separated only by an alley from the use to which they are accessory;

(9) The Board of Zoning Adjustment may require that all or a portion of the parking spaces be reserved for the following:

(A) Residential parking;

(B) Unrestricted commercial parking;

(C) Accessory parking for uses within eight hundred feet (800 ft.); and

(D) Shared parking for different uses by time of day; conditioned on lighting to reduce impacts on adjoining properties;

(10) In the R-19 and R-20 zones, no commercial parking lots shall be permitted; and

(11) The application shall be referred to the District Department of Transportation for review and report;

(k) Performing arts, live theatrical use of an existing theater or performance space in an institutional, educational, or performing arts building subject to the following conditions:

(1) The use shall not be organized for profit; and

(2) The use shall not likely become objectionable because of noise, hours of events, traffic, parking or other objectionable conditions;

(l) Private schools and residences for teachers and staff of a private school, but not including a trade school, subject to the following conditions:

(1) Shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions;

(2) Ample parking space, but not less than that required by this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile; and

(3) After hearing all evidence, the Board of Zoning Adjustment may require additional parking to that required by this title;

(m) Private stables shall be permitted as an accessory use subject to the following conditions:

(1) It shall be set back a minimum of fifty feet (50 ft.) from all lot lines and located so as not to affect adversely the light and air of the building to which it is accessory or of adjacent land and buildings;

(2) It shall be located and designed to create no condition objectionable to adjacent properties resulting from animal noise, odor, and/or waste; and

(3) The applicant shall demonstrate that any external yard will be fenced for the safe confinement of the animals;

(n) Use of existing residential buildings and the land on which they are located by a nonprofit organization for the purposes of the nonprofit organization:

(1) If the building is listed in the District of Columbia's Inventory of Historic Sites or, if the building is located within a district, site, area, or place listed on the District of Columbia's Inventory of Historic Sites;

(2) If the gross floor area of the building in question, not including other buildings on the lot, is ten thousand square feet (10,000 sq. ft.) or greater;

(3) The use of existing residential buildings and land by a nonprofit organization shall not adversely affect the use of the neighboring properties;

(4) The amount and arrangement of parking spaces shall be adequate and located to minimize traffic impact on the adjacent neighborhood;

(5) No goods, chattel, wares, or merchandise shall be commercially created, exchanged, or sold in the residential buildings or on the

land by a nonprofit organization, except for the sale of publications, materials, or other items related to the purposes of the nonprofit organization; and

(6) Any additions to the building or any major modifications to the exterior of the building or to the site shall require approval of the Board of Zoning Adjustment after review and recommendation by the Historic Preservation Review Board with comments about any possible detrimental consequences that the proposed addition or modification may have on the architectural or historical significance of the building or site or district in which the building is located;

(o) Uses and programs conducted by a religious congregation or group of congregations, subject to the following conditions:

(1) The program shall not be organized for profit, but shall be organized exclusively for the promotion of the social welfare of the community;

(2) The part of the program conducted on the property shall be carried on within the existing place of worship building(s) or structure(s);

(3) The staff conducting the program shall be composed of persons, at least seventy-five percent (75%) of whom volunteer their time and services;

(4) The operation of the program shall be such that it is not likely to become objectionable in the R zones because of noise, traffic, parking, or other objectionable conditions;

(5) No signs or display indicating the location of the program shall be located on the outside of the building or the grounds; and

(6) Any authorization by the Board of Zoning Adjustment shall be limited to a period of three (3) years, but may be renewed at the discretion of the Board of Zoning Adjustment;

(p) Utility uses subject to the following conditions:

(1) An electronic equipment facility shall not be permitted;

(2) Any requirements for setbacks, screening, or other safeguards that the Board of Zoning Adjustment deems necessary for the protection of the neighborhood; and

(3) Any new construction of a freestanding structure for use as an optical transmission node shall be built to appear compatible with

surrounding construction, including exterior building material, fenestration, and landscaping and there shall be no advertisement on the structure; and

(q) Any use within a District of Columbia former public school building that does not comply with the matter of right conditions of Subtitle U § 252 subject to the special exception conditions of Subtitle U § 252.

203.2 In R-Use Group C, a corner store use not permitted as a matter of right pursuant to Subtitle U § 254, shall be permitted as a special exception subject to the conditions of Subtitle U § 254;

203.3 College or university use that is an academic institution of higher learning, including a college or university hospital, dormitory, fraternity, or sorority house proposed to be located on the campus of a college or university shall be permitted as a special exception if approved by the Zoning Commission subject to the conditions of Subtitle X, Chapter 1and Subtitle Z.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

204 MATTER-OF-RIGHT USES – R-USE GROUP D

204.1 The following uses shall be permitted in the R-Use Group D zone:

(a) Any use permitted as a matter of right in Subtitle U § 201; and

(b) An existing non-residential use with a valid certificate of occupancy shall be considered a conforming use and may expand by not more than ten percent (10%) of its gross floor area as a matter of right under the provisions of the R-16 zone; provided, that the following requirements are met:

(1) No additional land area or subdivision of lots is involved in the expansion; and

(2) The ten percent (10%) expansion limit shall be a total limit on expansion based on the gross floor area of the building as of July 29, 1994.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

205 SPECIAL EXCEPTION USES – R-USE GROUP D

205.1 The uses in this section shall be permitted in the R-Use Group D zone if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, and subject to the provisions of this section:

(a) Any non-residential use permitted as a matter of right in Subtitle U § 202;

(b) A proposed expansion of an existing non-residential use in excess of ten percent (10%) of gross floor area, subject to the conditions of Subtitle U § 205.2; and

(c) Any use permitted as a special exception in Subtitle U § 203.

205.2 The following conditions shall apply to any application for use as a special exception under this section:

(a) The non-residential use is capable of being established and operated without adversely affecting the use and enjoyment of neighboring and nearby properties due to traffic, noise, design, or other objectionable conditions; and

(b) There shall be adequate, appropriately located, and screened off-street parking sufficient to provide for the needs of the maximum number of occupants, employees, congregants, and visitors who can use the facility at one (1) time; provided:

(1) The number of parking spaces provided shall be not less than the number required by Subtitle C, Chapter 7 of this title and shall be located and designed so that they have the least objectionable effects on contiguous or nearby property because of noise, traffic, or other objectionable condition;

(2) Parking spaces and driveways providing access to them shall not be located in a required side setback, or on the lot between the principal building and a street right-of-way, nor in public space abutting the lot;

(3) If five (5) or more open parking spaces are provided, the parking spaces shall be screened from all contiguous residential property by a wood fence or a wall made of brick or stone at least twelve inches (12 in.) thick and sixty inches (60 in.) high, or by evergreen hedges or evergreen growing trees that are thickly planted and maintained and are at least sixty inches (60 in.) in height when planted; and

(4) Any lighting used to illuminate open parking spaces shall be so arranged that all direct rays of lighting are confined to the surface of the paved area devoted to parking; any lighting provided shall be the minimum necessary for reasonable visibility by drivers and for security purposes.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

206-249 [RESERVED]

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

250 ACCESSORY USES (R)

250.1 The following accessory uses shall be permitted as a matter of right in all R zones subject to the associated conditions:

(a) Two (2) boarders within the principal dwelling;

(b) No more than two (2) car-sharing spaces, neither of which may be a space devoted to required parking;

(c) Child development home or elderly day care home subject to the following conditions:

(1) The use shall be located in the principal residence of the caregiver;

(2) There shall be no more than one (1) sign or display, which shall not exceed one hundred forty-four square inches (144 sq. in.) in area;

(3) No stock in trade is kept nor any commodity sold upon the premises;

(4) No more than one (1) person who does not reside on the premises may be employed; and

(5) No mechanical equipment shall be used except such as is permissible for purely domestic or household purposes;

(d) Home Occupation subject to the conditions of Subtitle U § 251; and

(e) Other accessory uses, buildings or structures customarily incidental to the uses permitted in R zones under the provisions of this section shall be permitted; including one (1) sale in the nature of a yard sale, garage sale, or home sales party may be held at a dwelling unit during a twelve (12) month period.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

251 HOME OCCUPATION USES (R)

251.1 The following uses shall be permitted as home occupations. The uses listed under this subsection shall include similar uses in each category subject to the same conditions and requirements of this chapter:

(a) Business support and technology services;

(b) The following daytime care uses:

(1) Child development home, provided no more than two (2) persons who are not a resident of the dwelling unit shall be engaged or employed in the child development home;

(2) Expanded child development home for between seven (7) and nine (9) individuals fifteen (15) years of age or less; provided:

(A) No more than three (3) persons who are not a resident of the dwelling unit shall be engaged or employed;

(B) A minimum of thirty-five square feet (35 sq. ft.) of floor area per individual is provided including the basement but excluding any accessory structure shall be utilized for the expanded child development home; and

(C) No more than three hundred and twenty square feet (320 sq. ft.) of the floor area of the dwelling including the basement but excluding any accessory structure shall be utilized for the expanded child development home;

(3) Expanded child development home for ten (10) to twelve (12) individuals fifteen (15) years of age less may be permitted as a special exception by the Board of Zoning Adjustment under § 3104 and subject to the provisions of § 203.10; provided a minimum of thirty-five square feet (35 sq. ft.) of floor area per individual is provided including the basement but excluding any accessory structure;

(c) Cosmetologist, hair stylist, or barber;

(d) Cottage food business;

(e) Dressmaking, sewing, and tailoring;

(f) Home crafts, graphic arts, photography, and other fine arts occupations practiced by an individual in a home studio; provided, that no more than sixty percent (60%) of the floor area of the dwelling unit may be devoted to the studio;

(g) Home office of a businessperson, non-profit organization, sales person, or manufacturer's representative; provided, that the dwelling is not used as a gathering point for workers who are on the way to another work site;

(h) Home office of a physician, dentist, or other health care or licensed medical professional; provided, there is no other medical or dental practice on the site;

(i) Home office of a scientist, clergyman, inventor, academician, licensed health care professional other than one provided for in paragraph (h) of this subsection, or other professional person;

(j) Lodging subject to the following conditions:

(1) The dwelling shall be owned and occupied as the principal residence of the operator(s);

(2) The use shall not be permitted in a multiple dwelling building;

(3) Breakfast shall be the only meal served, and served only to overnight guests;

(4) The maximum number of sleeping rooms shall be two (2), except:

(A) Pursuant to Subtitle U § 251.6(b), the maximum number of sleeping rooms may be increased to four (4); or, in a dwelling that is an historic landmark, or that is located in a historic district and certified by the Historic Preservation Office as contributing to the character of that historic district, the number of sleeping rooms may be increased to six (6); and

(B) The number of sleeping rooms permitted as a matter of right or as a special exception as set forth in this paragraph shall be reduced by one (1) for each person who rooms or boards in the dwelling for thirty (30) days or longer;

(5) No cooking facilities shall be permitted in any of the rented rooms; and

(6) In addition to the required parking for the dwelling unit, one (1) parking space shall be provided for each two (2) sleeping rooms devoted to guest use;

(k) A practitioner may perform and be paid for a service, even if the service results in the creation of a product;

(l) Sales, subject to the following conditions:

(1) Items sold are directly associated with the home occupation;

(2) Five (5) sales in the nature of yard sales, garage sales, or home sales parties may be held at a dwelling as a matter of right during a twelve-month (12-month) period; one (1) additional sale for a total

of six (6) may be permitted if approved by the Board of Zoning Adjustment pursuant to Subtitle U § 251.6; and

(3) General retail sales or sales to customers without appointments shall not be permitted;

(m) Tutoring and instruction of not more than five (5) students at any one (1) time, including academic tutoring, dance, languages, culinary arts, and musical instrument and similar activities; and

(n) A home occupation may be permitted in an accessory apartment subject to the following limitations:

(1) There shall be no more than six (6) visitors or clients per day;

(2) There shall be no related sales; and

(3) There shall be no lodging or overnight stays as part of the home occupation.

251.2 A Home Occupation Permit (HOP) shall be required prior to the practice of a home occupation and subject to the following requirements:

(a) A HOP shall be obtained by the practitioner;

(b) A HOP shall be granted only to a designated person or group of persons who reside at a residential address;

(c) A HOP may not be transferred from one (1) person to another or from one (1) address to another;

(d) A HOP shall require evidence of the property owner's concurrence for any HOP that involves employees, clients, customers or other non-residents to attend the property;

(e) A HOP shall be issued without a public hearing if the requirements of this subsection are met, or after a public hearing by the Board of Zoning Adjustment pursuant to Subtitle U § 251.6 and Subtitle X;

(f) If the Zoning Administrator determines that an application for a HOP appears to meet the conditions of this chapter, but is inconsistent with the general purpose and intent of this section, the Zoning Administrator may certify the application to be decided as an appeal by the applicant to the Board of Zoning Adjustment; and

(g) In making the determination to refer the HOP to the Board of Zoning Adjustment, the Zoning Administrator may consider, but not be limited to, the cumulative impact of one (1) or more home occupations.

251.3 A home occupation shall comply with the following conditions and requirements:

(a) A home occupation shall be clearly secondary to the use of a dwelling unit for residential purposes;

(b) Except for lodging, and as provided in Subtitle U §§ 251.1(b) and 251.1(f), no more than the larger of two hundred fifty square feet (250 sq. ft.) or twenty-five percent (25%) of the floor area of the dwelling, excluding basement or any accessory structure, shall be utilized for the home occupation;

(c) All materials or finished products shall be stored within the floor area utilized for the home occupation or in a basement or accessory structure;

(d) Except as provided in Subtitle U § 251.1(b), in no case shall more than two (2) persons who are not residents of the subject dwelling unit be permitted as employees of the home occupation except for the home office of a physician or dentist;

(e) No interior structural alteration shall be permitted if it would make it difficult to return the premises to a use that is exclusively residential;

(f) No operations related to the home occupation shall be conducted outside a structure, nor shall any storage or other unsightly condition be permitted outside a structure;

(g) No equipment or process shall be utilized that creates visual or audible electrical interference in television or radio receivers outside the subject home, or that causes fluctuations in line voltage outside the subject home;

(h) The use shall produce no noxious odors, vibrations, glare, or fumes that are detectable to normal sensory perception outside the subject home;

(i) The use shall not produce a level of noise that exceeds the level normally associated with the category of dwelling or the immediate neighborhood;

(j) No more than two (2) vehicles may be used in the practice of the home occupation;

(k) Except for child development homes and expanded child development homes, vehicular trips to the premises by visitors, customers, and delivery persons shall not exceed eight (8) trips daily on a regular and continuing basis;

(l) Except for child development homes and expanded child development homes, the practitioner shall have no more than eight (8) clients or customers on the premises in any one (1) hour period;

(m) If more than one (1) home occupation is practiced in a dwelling unit, the cumulative impact of all such home occupations shall not exceed any of the standards set forth in this chapter; and

(n) The dwelling unit owner and the practitioner shall maintain the residential character and appearance of the dwelling unit and lot.

251.4 A sign on a dwelling or building in which a home occupation is practiced shall be permitted, subject to the following conditions:

(a) No more than one (1) exterior sign may be displayed on a dwelling or other building in which a home occupation is practiced, regardless of the number of home occupations permitted in the dwelling or building;

(b) The sign shall not exceed one hundred forty-four square inches (144 sq. in.) in area;

(c) The sign shall be flush-mounted;

(d) The sign shall not be illuminated; and

(e) The sign may state only the name of the practitioner and the type of home occupation.

251.5 Except as explicitly permitted by Subtitle U § 251.1, the following uses categories are prohibited as home occupations:

(a) Animal sales, care, and boarding;

(b) Entertainment, assembly, and performing arts;

(c) Firearms sales;

(d) Motor vehicle sales, service, or repair;

(e) Production, distribution, and repair;

(f) Retail sales;

(g) Sexually-based business establishment; and

(h) Waste-related services.

251.6 A home occupation that is not permitted or is prohibited in this chapter may be permitted as a special exception by the Board of Zoning Adjustment under Subtitle X, subject to the following conditions:

(a) The proposed use and related conditions shall be consistent with the purposes of this chapter and shall generally comply with the requirements

of Subtitle U §§ 251.1 through 251.4, subject to specific findings and conditions of the Board of Zoning Adjustment in each case;

(b) An applicant for a home occupation that is permitted by Subtitle U § 251.1 may request the Board of Zoning Adjustment to modify no more than two (2) of the conditions enumerated in Subtitle U §§ 251.3 and 251.4;

(c) In no case shall more than two (2) persons who are not residents of the subject home be permitted as employees of the home occupation, and those persons shall not be co-practitioners of the profession;

(d) Any request to modify more than two (2) of the requirements found in Subtitle U §§ 251.3 and 251.4 shall be deemed a request for a variance; and

(e) In considering any request for approval under this section, the Board of Zoning Adjustment shall determine that the request is consistent with the general purposes and intent of this chapter and may impose conditions relating to operating conditions of the home occupation, parking, screening, or other requirements as it deems necessary to protect adjacent and nearby properties consistent with the general purpose and intent of this chapter.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

252 USES IN FORMER PUBLIC SCHOOLS (R)

252.1 The provisions of this section shall apply to uses within a building owned by the District of Columbia that formerly served as the location of a public school (former school building) in an R zone.

252.2 In the R-16 zones, the non-residential uses in a former school building shall be limited to ten percent (10%) of the gross floor area of the school as a matter of right.

252.3 The following uses shall be permitted as a matter of right within a former school building subject to the following conditions:

(a) Administrative offices of District of Columbia government agencies not part of the criminal justice system, provided:

(1) The use shall not extend outside the building unless accessory and incidental to the principal administrative use; and

(2) Any storage shall be fully enclosed;

(b) Arts uses as follows:

(1) Art center;

(2) Art incubator; or

(3) Art or performing arts school, including, but not limited to, schools of dance, photography, filmmaking, music, writing, painting, sculpting, or printmaking;

(c) Daytime care uses;

(d) Community college uses, subject to the following conditions:

(1) The use shall not occupy more than fifty thousand square feet (50,000 sq. ft.) of building area;

(2) There shall be no external activities after 9:00 p.m.; and

(3) There shall be no use of the college space after 12:00 a.m.;

(e) Community service use or uses provided:

(1) The application for a certificate of occupancy include evidence demonstrating that the established mission of the use will serve the community, neighborhood, or District of Columbia population;

(2) The use shall not be a community-based institutional facility, part of the criminal justice system, or a substance abuse treatment facility; and

(3) There is no outdoor storage of materials;

(f) Health care uses that meet the definition of a clinic provided the use shall not be a substance abuse treatment facility; and

(g) Residential uses subject to the maximum number of dwelling units of the R zone in which the former school building is located.

252.4 The following uses shall be permitted as a temporary use as a matter of right within a former school building subject to the following conditions:

(a) Temporary building for the construction industry that is incidental to erection of buildings or other structures permitted by this section for a period no longer than one (1) year; and

(b) Temporary use of premises by fairs, circuses, or carnivals, upon compliance with the provisions of Title 19 DCMR, Chapter 13 (Amusements, Parks, and Recreation).

252.5 The following uses shall be permitted as a special exception within a former school building if approved by the Board of Zoning Adjustment under Subtitle X:

(a) A use permitted by Subtitle U § 252.3 that does not meet one (1) or more of the applicable conditions or provisions;

(b) A government use or not-for-profit use not otherwise permitted by this section; and

(c) In the R-16 zone, any nonresidential use in excess of ten percent (10%).

252.6 Any expansion of a former school building housing a use permitted by this section shall be permitted as a special exception within a former school building if approved by the Board of Zoning Adjustment under Subtitle X.

252.7 In addition to any other conditions of approval, the Board of Zoning Adjustment may impose setbacks, screening, lighting requirements, or other safeguards that the Board of Zoning Adjustment deems necessary for the protection of the neighborhood.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

253 ACCESSORY APARTMENT (R)

253.1 One (1) accessory apartment may be established in an R zone, subject to the provisions of this section.

253.2 An accessory apartment shall be permitted in a principal dwelling or an accessory building as a matter of right in the R zones, except the R-19 or R-20 zones, subject to the provisions of this section.

253.3 An accessory apartment proposed in an accessory building not meeting the conditions of Subtitle U § 253.8 shall be permitted as a special exception if approved by the Board of Zoning Adjustment, subject to the provisions of this section.

253.4 In the R-19 or R-20 zone, an accessory apartment shall be permitted as a special exception in either a principal dwelling or an accessory building if approved by the Board of Zoning Adjustment, subject to the provisions of this section.

253.5 Either the principal dwelling or accessory apartment unit shall be owner-occupied for the duration of the accessory apartment use.

253.6 The total number of persons that may occupy the accessory apartment shall not exceed three (3), except in the R-19 or R-20 zone where the aggregate number of persons that may occupy the house, including the principal dwelling and the accessory apartment combined, shall not exceed six (6).

253.7 An accessory apartment located in the principal dwelling shall be subject to the following conditions:

(a) The house shall have a minimum of gross floor area, exclusive of garage space in the following zones:

TABLE U § 253.7(a): MINIMUM GROSS FLOOR AREA:

Zones	Minimum GFA
R-1-A R-1-B R-19	2,000 sq. ft.
R-2, R-3 R-10 R-13 R-17 R-20	1,200 sq. ft.

(b) The accessory apartment unit may not occupy more than thirty-five percent (35%) of the gross floor area of the house;

(c) Except as provided in Subtitle U § 253.7(d), if an additional entrance is created to a house it shall not be located on a wall of the house that faces a street; and

(d) An additional entrance to a house in an R-3, R-13, R-17, or R-20 zone may be located on a wall of the house that faces a street provided it is below the main level of the house and if in a historic district, a determination by the appropriate body that the additional door is compatible with the character of the historic district.

253.8 An accessory apartment in an accessory building in an R zone, except the R-19 and R-20 zone, shall be permitted as a matter of right subject to the following conditions:

(a) There shall be permanent access to the accessory building apartment;

(b) The dwelling use of the accessory building shall be coterminous with the permanent access;

(c) The permanent access shall be provided by one (1) of the following:

(1) A permanent passage, open to the sky, no narrower than eight feet (8 ft.) in width, and extending from the accessory building to a public street through a side setback or shared recorded easement between properties;

(2) Through an improved public alley with a minimum width of twenty-four feet (24 ft.) that connects to a public street; or

(3) The accessory building is within three hundred feet (300 ft.) of a public street accessible through an improved public alley with a minimum width of fifteen feet (15 ft.);

(d) An accessory building that houses an apartment shall not be used simultaneously for any accessory use other than as a private vehicle garage, an artist studio, or storage for a dwelling unit on the lot;

(e) An accessory building that houses an apartment shall not have a roof deck; and

(f) An accessory apartment proposed within an accessory building that does not meet the conditions of this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, and subject the following conditions:

(1) The accessory building shall be located such that it is not likely to become objectionable to neighboring properties because of noise, traffic, parking, or other objectionable conditions; and

(2) Evidence that there are adequate public utilities for the health and safety of the residents.

253.9 An accessory apartment proposed in the R-19 and R-20 zones shall be subject to the restrictions of Subtitle U §§ 253.5 through 253.8 and the following conditions:

(a) It shall only be permitted on the second story of a detached accessory building; and

(b) Any balcony or projecting window shall not face a principal building in single household residential use; and provided the balcony is located entirely within the permitted footprint of the accessory building.

253.10 Not more than two (2) of the requirements specified in this section may be modified or waived by the Board of Zoning Adjustment subject to the following limitations:

(a) The owner-occupancy requirement of Subtitle U § 253.5 shall not be waived in any R zones;

(b) Subtitle U § 253.6 shall not be modified or waived in the R-19 or R-20 zone; and

(c) Any modification(s) approved shall not conflict with the intent of this section to maintain a single household residential appearance and character in the R zones.

253.11 In addition to Subtitle U § 253.10, the Board of Zoning Adjustment may approve as a special exception the inclusion of a balcony or projecting windows for the accessory apartment.

253.12 Any request to modify more than two (2) of the requirements of this subsection shall be deemed a request for a variance.

253.13 Prior to renting an accessory apartment in any zone, the property owner shall obtain a Residential Rental Business License from the Department of Consumer and Regulatory Affairs and the property shall be inspected for relevant housing code compliance.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

254 CORNER STORES

254.1 A corner store shall only be permitted in the R-3, R-13, R-17, R-20, RF-1, RF-2, and RF-3 zones.

254.2 A corner store use shall be a retail, general service, arts design and creation, or eating and drinking establishment use subject to the provisions of this section.

254.3 **[RESERVED]**

254.4 **[RESERVED]**

254.5 The allowable total area for a corner store shall be one thousand-two hundred square feet (1,200 sq. ft.), not including cellar space, and shall be limited to the ground story and cellar or basement.

254.6 A corner store shall only be located as follows:

(a) On a lot that is at the intersection of two (2) generally perpendicular streets;

(b) Not within five hundred feet (500 ft.) of more than one (1) other lot with a corner store use defined as an eating and drinking establishment;

(c) Not within five hundred feet (500 ft.) of more than three (3) other lots with a corner store use defined as retail, general service, or arts, design, and creation uses;

(d) In the R-3, R-13, or R-17 zones, on an interior or through lot with a building that was built prior to May 12, 1958 for the purpose of a nonresidential use, as established by a certificate of occupancy, permit records or other historical documents accepted by the Zoning Administrator;

(e) In the R-3, R-13, or R-17 zones, no nearer than five hundred feet (500 ft.) to a property line of a lot in a MU or NC zone;

(f) In the R-20 zone, on an interior or through lot with a building that was built prior to May 12, 1958, for the purpose of a nonresidential use, and only if the building was used for a corner store use within the previous three (3) years established by a certificate of occupancy, permit records, or other historical documents accepted by the Zoning Administrator; and

(g) In the R-20 zone, no nearer than seven hundred and fifty feet (750 ft.) to a property line of a lot in an MU or NC zone.

254.7 A corner store shall not be permitted:

(a) On an alley lot;

(b) On a lot or within a building containing more than one (1) dwelling unit or another corner store;

(c) Within a building that is accessory to the principal building on the lot;

(d) On an R zoned lot within Squares 1327 or 1350, 1351, 1352, or 1353 inclusive; or

(e) In the R-20 zone, on an interior or through lot that has not been used for corner store uses for three (3) or more consecutive years shall not be deemed eligible for a corner store use.

254.8 There shall be no on-site cooking of food or installation of grease traps; however, food assembly and reheating is permitted in a corner store.

254.9 There shall be no sale of alcoholic beverages for on-site consumption in a corner store.

254.10 All storage of materials and trash shall occur within the building area devoted to the corner store. There shall be no external storage of materials or trash.

254.11 There shall be no on-site use or storage of dry cleaning chemicals in a corner store.

254.12 Only one (1) external sign may be displayed on the building's façade, provided that the sign is not illuminated and is flush-mounted.

254.13 A corner store for which the use is a fresh food market or grocery store devoted primarily to the retail sale of food shall be permitted as a matter of right subject to the following conditions:

(a) The use shall meet the requirements of Subtitle U §§ 254.5 through 254.12;

(b) The use shall not operate between 9:00 p.m. and 7:00 a.m.;

(c) A minimum of forty percent (40%) of customer-accessible sales and display area shall be dedicated to the sale of a general line of food products intended for home preparation and consumption;

(d) A minimum of twenty percent (20%) of retail space shall be dedicated to the sale of perishable goods that include dairy, fresh produce, fresh meats, poultry, fish and frozen foods; and

(e) A maximum of fifteen percent (15%) of the gross floor area of the corner store located on the ground floor of the building may be devoted to the sale of alcohol for off-site consumption only when approved as a special exception.

254.14 A corner store use that is not permitted as a matter of right pursuant to Subtitle U § 254.13, shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

(a) A corner store use shall be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, deliveries, or other objectionable conditions;

(b) The applicant shall demonstrate that the proposed corner store use will not detract from the overall residential character of the area and will enhance the pedestrian experience by providing within the application the following information:

(1) A demonstration of conformity to the provisions of Subtitle U §§ 254.5 through 254.12;

(2) A description of proposed uses, activities, goods sold, or services rendered, including:

(3) Proposed size and location within the principal building;

(4) Proposed number of employees at any one (1) time and in total;

(5) Proposed hours of operation;

(6) Proposed signage;

(7) Any proposed amplified music or other sound outside of the building containing the corner store use;

(8) Any outdoor seating associated with the corner store use;

(9) Proposed parking number, location, and screening such that any parking shall be fully screened from all adjacent properties, streets and alleys;

(10) Proposed location of all storage; and

(11) Proposed location of trash storage and method and timing for removal;

(c) Any alterations to the property proposed to accommodate the corner store use, including any grading changes, tree removal; or addition of retaining walls, patios, or pervious surfaces;

(d) Any modifications to the building façade, including changes to window and door openings; and

(e) The maximum sales area devoted to the sale of alcohol for off-site consumption shall be limited to a maximum of fifteen percent (15%) of the gross floor area of the ground floor of the corner store.

254.15 The Board of Zoning Adjustment may waive the location restrictions of Subtitle U §§ 254.6(b) and (c) provided the applicant adequately demonstrates that the proposed corner store use will:

(a) Be neighborhood serving;

(b) Not negatively impact the economic viability or vitality of an area zoned MU or NC that is closer than seven hundred and fifty feet (750 ft.) to an R-20 zone or five hundred feet (500 ft.) to any other R zone;

(c) Not create a concentration of non-residential uses that would detract from the overall residential character of the area; and

(d) Not result in undue impacts uses on residents of the area through the concentration of such.

254.16 Except as provided in Subtitle U §§ 254.13 and 254.14, an application not meeting the requirements of this section shall be deemed a variance, subject to the provisions of Subtitle X, Chapter 10.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 3 USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES

300 GENERAL USE PROVISION (RF)

300.1 This chapter contains use permissions and any applicable conditions in the RF zones.

300.2 In the RF zones, nonresidential business uses may be permitted as a home occupation use subject to the conditions and regulations of a home occupation as defined in Subtitle U § 251. A home occupation is considered an accessory use.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

301 MATTER-OF-RIGHT USES (RF)

301.1 The following uses shall be permitted as a matter of right in an RF zone subject to any applicable conditions:

(a) Any use permitted in the R zones under Subtitle U §§ 201 and 202;

(b) Residential flats with a maximum number of principal dwelling units as follows:

TABLE U § 301.1(b) MAXIMUM NUMBER OF PRINCIPAL DWELLING UNITS:

RF Zone	Number of Principal Dwelling Units
RF-1	2
RF-2	2
RF-3	2
RF-4	3
RF-5	4

(c) A permitted principal dwelling unit within an accessory building subject to the following conditions of:

(1) The accessory building was in existence on January 1, 2013;

(2) No expansion or addition may be made to the accessory building to accommodate an apartment except as a special exception;

(3) There shall be permanent access to the accessory building dwelling from a dedicated and improved right of way; and

(4) Permanent access shall be provided by one (1) of the following:

(A) An easement for a permanent passage, open to the sky, no narrower than eight feet (8 ft.) in width, and extending from the accessory building to a public street through a side

setback recorded in the land records of the District of Columbia;

(B) Through an improved public alley with a minimum width of twenty-four feet (24 ft.) that connects to a public street; or

(C) On an improved alley no less than fifteen feet (15 ft.) in width and within a distance of three hundred (300) linear feet of a public street;

(d) An accessory building that houses a principal dwelling unit shall not have a roof deck;

(e) An accessory building constructed as a matter-of-right after January 1, 2013, and that is located within a required setback shall not be used as, or converted to, a dwelling unit for a period of five (5) years after the approval of the building permit for the accessory building, unless approved as a special exception;

(f) An accessory building that houses a principal dwelling unit shall not be used simultaneously for any accessory use other than as a private vehicle garage for a dwelling unit on the lot, storage, or as an artist studio; and

(g) Any proposed expansion of an accessory building for residential purposes shall be permitted only as a special exception approval pursuant to Subtitle X, and shall be evaluated against the standards of this section.

(h) A boarding house subject to the following conditions:

(1) No more than eight (8) total persons shall live on the premises;

(2) Accommodations are not provided to transient guests who stay less than ninety (90) days at the premises;

(3) No sign is displayed on the premises;

(4) No advertisement is displayed or published on or off the premises holding out the establishment to be a hotel, motel, inn, hostel, bed and breakfast, private club, tourist home, guest house, or other transient accommodation; and

(5) Cooking facilities are not provided in any individual unit;

(i) A corner store use subject to the matter-of-right conditions of Subtitle U § 254;

(j) Any uses permitted within a District of Columbia former public school building subject to the matter-of-right conditions of Subtitle U § 252;

(k) Medical care uses; and

(l) A multiple dwelling in Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, or 2589, in existence as of December 14, 2015 with a valid certificate of occupancy, or a building permit application for a multiple dwelling that was officially accepted by DCRA as being complete prior to December 14, 2015, provided that the multiple dwelling shall not be expanded in gross floor area, lot occupancy, number of stories, building height, penthouse height, or number of units. Said multiple dwelling, however, may be repaired, renovated, remodeled, or structurally altered.

301.2 Conversion of an existing non-residential building existing prior to May 12, 1958, to a residential building shall be permitted as a matter of right in an RF-1, RF-2, or RF-3 zone subject to the following conditions:

(a) There is an existing non-residential building on the property at the time of filing an application for a building permit;

(b) The maximum height of any addition to the existing structure shall not exceed thirty-five feet (35 ft.);

(c) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;

(d) An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property;

(e) A roof top architectural element original to the structure such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size;

(f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code;

(g) Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator; and

(h) An apartment house in an RF-1, RF-2, or RF-3 zone converted from a non-residential building prior to June 26, 2015, shall be considered a conforming use and structure, but shall not be permitted to expand, either structurally or through increasing the number of units, unless approved by

the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and Subtitle U § 320.3

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 16-08 published at 63 DCR 12366 (October 7, 2016).

302-309 [RESERVED]

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

310 ACCESSORY USES (RF)

310.1 The following accessory uses in this section shall be permitted as a matter of right in an RF zone subject to any applicable conditions:

(a) Any accessory use permitted in the R zones under Subtitle U § 250;

(b) Accessory parking spaces or an accessory parking garage subject to all the applicable provisions of Subtitle C, Chapter 7; and

(c) Other accessory uses buildings or structures customarily incidental to the uses permitted in RF zones under the provisions of this chapter.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

311- 319 [RESERVED]

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

320 SPECIAL EXCEPTION USES (RF)

320.1 The uses in this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to any applicable provisions of each section:

(a) Any use or structure permitted under Subtitle U § 203 subject to any modification by this chapter.

(b) A community service center to accommodate organizations created for the purpose of improving the social or economic well-being of the residents of the neighborhood in which the center is proposed to be located which may include but not be limited to centers for job training, family counseling, consumer cooperatives, and such other facilities as are similar in nature and purpose, subject to the following conditions:

(1) A community service center shall be located so that it is not likely to become objectionable to neighboring properties because of noise or other objectionable conditions;

(2) The use shall be reasonably necessary or convenient to the neighborhood in which it is proposed to be located; and

(3) A community service center shall not be organized for profit, and no part of its net income shall inure to the benefit of any private shareholder or individual;

(c) A corner store use in a RF-1, RF-2, or RF-3 zone not meeting the matter-of-right conditions of Subtitle U § 254, subject to the special exception conditions of Subtitle U § 254.14;

(d) Parks and recreation uses not meeting the conditions of Subtitle C, Chapter 16 subject to the following conditions:

(1) A building housing such a use may be erected to a height not to exceed forty-five feet (45 ft.); and

(2) A public recreation and community center may be permitted a lot occupancy not to exceed forty percent (40%), if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle C § 1610 and provided that the agency shows that the increase is consistent with agency policy of preserving open space; and

(e) Any use permitted within a District of Columbia former public school building that does not comply with the matter-of-right conditions of Subtitle U § 252, subject to the special exception conditions of Subtitle X, Chapter 9.

320.2 Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

(a) The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit to a maximum height of forty feet (40 ft.) provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i);

(b) The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6;

(c) There must be an existing residential building on the property at the time of filing an application for a building permit;

(d) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;

(e) An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property;

(f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code;

(g) Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow or shade study, or other reputable study acceptable to the Board of Zoning Adjustment;

(h) A roof top architectural element original to the house such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size;

(i) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(1) The light and air available to neighboring properties shall not be unduly affected;

(2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and

(3) The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street or alley;

(j) In demonstrating compliance with Subtitle U § 320.2(i) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways;

(k) The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block;

(l) The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through § 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle U § 320.2(i); and

(m) An apartment house in an RF-1, RF-2 or RF-3 zone, converted from a residential building prior to June 26, 2015, or converted pursuant to Subtitle A §§ 301.9, 301.10, or 301.11 shall be considered a conforming use and structure, but shall not be permitted to expand either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and this section.

320.3 Conversion of a non-residential building or other structure existing prior to May 12, 1958, to an apartment house and not meeting one (1) or more of the requirements of Subtitle U § 301.2, shall be permitted as a special exception in an RF-1, RF-2 or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to the following provisions:

(a) No special exception relief shall be available from the requirements of Subtitle U § 301.2(a);

(b) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular;

(1) The light and air available to neighboring properties shall not be unduly affected;

(2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and

(3) The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street or alley;

(c) In demonstrating compliance with Subtitle U § 320.3(b) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways; and

(d) The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016); Final Rulemaking & Order No. 14-11A published at 63 DCR 10981 (August 26, 2016).

321 ADDITIONAL USE RESTRICTIONS AND CONDITIONS

321.1 This section shall modify uses of this chapter otherwise permitted as a matter of right or as a special exception.

321.2 In the RF-3 zones, the following uses shall not be permitted as a matter of right or as a special exception:

(a) Parking lot; provided, that a parking lot in existence on May 31, 1985 may continue subject to any conditions of the zone;

(b) Public utility pumping station;

(c) Storage of wares and goods on an alley lot; and

(d) Telecommunications facility.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

CHAPTER 4 USE PERMISSIONS RESIDENTIAL APARTMENT (RA) ZONES

400 GENERAL USE PROVISIONS (RA)

400.1 This chapter contains use permissions and any applicable conditions in the RA zones.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

401 MATTER-OF-RIGHT USES (RA)

401.1 The following uses shall be permitted as a matter of right subject to any applicable conditions:

(a) Any use permitted in the RF zones under Subtitle U § 301, except corner stores;

(b) Private clubs with sleeping accommodations;

(c) Child/Elderly development center or adult day treatment facility in RA zones provided, that the center shall be limited to no more than twenty-five (25) individuals;

(d) Except for the RA-1 and RA-6 zones:

(1) Multiple dwellings provided that in an apartment house, accommodations may be provided only to residents who stay at the premises a minimum of one (1) month; and

(2) Hotel in existence as of May 16, 1980, with a valid certificate of occupancy or a valid application for a building permit; provided, that the gross floor area of the hotel may not be increased and the total area within the hotel devoted to function rooms, exhibit space, and commercial adjuncts may not be increased. An existing hotel may be repaired, renovated, remodeled, or structurally altered; and

(e) Recreation building, park, playground, swimming pool, athletic field, ice rink, or other similar athletic facility, public or private, operated on and using local or federal land and approved by a joint federal-local jurisdictional transfer agreement; subject to the following:

(1) No part of any use is nearer than seventy feet (70 ft.) to the nearest residential structure;

(2) The uses shall not be organized for profit;

(3) All parking areas shall be shared by all uses on a lot;

(4) Scoreboards shall be installed such that the highest point is no taller than twenty-five feet (25 ft.) above grade; and

(5) Any lighting used to illuminate a park, playground, athletic field, trail, or other outdoor space, shall be so arranged that all direct rays of lighting are confined to the boundaries of the lot.

401.2 A chancery is a permitted use in RA-4, RA-5, RA-10, or RA-11 zones, subject to disapproval by the Board of Zoning Adjustment in accordance with the requirements of Subtitle X, Chapter 2 of this title.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

402-409 [RESERVED]

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

410 ACCESSORY USES (RA)

410.1 The following accessory uses shall be permitted as a matter of right subject to the associated conditions:

(a) Any accessory use permitted in the R zones under Subtitle U § 250;

(b) Accessory parking spaces or an accessory parking garage subject to all the applicable provisions of Subtitle C, Chapter 7;

(c) Temporary exhibits, fundraising functions, and benefit sales for nonprofit organizations not to exceed ten (10) days in a hotel with more than one hundred (100) rooms or suites;

(d) Commercial adjuncts as accessory uses to a hotel containing one hundred (100) or more rooms or suites shall be permitted in an RA zones, provided:

(1) The total area within the hotel devoted to function rooms, exhibit space, and commercial adjuncts shall not be increased;

(2) There shall be no direct entrance to the function rooms, exhibit space, and commercial adjuncts from the outside of the building;

(3) No part of the adjunct or the entrance to the adjunct shall be visible from a sidewalk; and

(4) No sign or display indicating the existence of the adjuncts shall be visible from the outside of the building;

(e) A home occupation use subject to the conditions and regulations of a home occupation as defined in Subtitle U § 251, and subject to the following conditions:

(1) No more than four (4) clients or visitors per day shall be allowed; and

(2) No person who is not a resident of the dwelling unit shall be engaged or employed in the home occupation; and

(f) Other accessory uses buildings or structures customarily incidental to the uses permitted in RA zones under the provisions of this section; and

(g) An accessory community dining room within an apartment house solely for the use of tenants and their guests.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

411-419 [RESERVED]

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

420 SPECIAL EXCEPTION USES (RA)

420.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to any applicable provisions of each section:

(a) Any use or structure permitted under Subtitle U § 320 except as modified by this section;

(b) Art gallery or museum subject to the following conditions:

(1) The art gallery or museum shall be located and operated so that it is not likely to become objectionable to adjoining and nearby property because of objectionable noise, pedestrian and vehicular traffic, hours of operation, or other objectionable conditions;

(2) The Board of Zoning Adjustment shall consider, and regulate, if necessary, the anticipated frequency, number of attendees, and other characteristics of show openings or other group gatherings;

(3) Adequate off-street parking shall be provided to accommodate occupants, employees, and visitors likely to come to the gallery by automobile;

(4) The proposed use shall not adversely affect the present character or future development of the surrounding area; and

(5) The Board of Zoning Adjustment may require special treatment in the way of design, screening of buildings and parking, signs, exterior and interior lighting, or other requirements it deems necessary to protect adjacent and nearby properties;

(c) A corner store shall not be permitted within the RA zones;

(d) Commercial adjuncts to a hotel containing less than one hundred (100) rooms or suites subject to the following conditions:

(1) The total area within the hotel devoted to function rooms, exhibit space, and commercial adjuncts shall not be increased;

(2) There shall be no direct entrance to the adjunct from the outside of the building;

(3) No part of the adjunct or the entrance to the adjunct shall be visible from a sidewalk;

(4) No sign or display indicating the existence of the adjunct shall be visible from the outside of the building; and

(5) The hotel shall be of sufficient size and character so that the financial support of the requested adjunct may be expected to be furnished entirely or substantially by the hotel guests;

(e) A drive-through accessory to any use shall not be permitted;

(f) Emergency shelter use for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families subject to the following conditions:

(1) There shall be no other property containing an emergency shelter for seven (7) or more persons either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the property.

(2) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

(3) The proposed facility shall meet all applicable code and licensing requirements;

(4) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area;

(5) The Board of Zoning Adjustment may approve more than one (1) emergency shelter in a square or within five hundred feet (500 ft.) only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations; and

(6) The Board of Zoning Adjustment may approve a facility for more than twenty-five (25) persons, not including resident supervisors or staff and their families, only if the Board of Zoning Adjustment finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District;

(g) Nonresidential adjunct uses as an accessory use within an apartment house, consisting of the sale of foods, drugs, and sundries and personal services designed to serve the tenants' daily living needs subject to the following conditions:

(1) The adjuncts authorized under this paragraph shall be limited to the main floor of the building or below;

(2) There shall be no direct entrance to the adjunct from the outside of the building;

(3) No part of the adjunct or the entrance to the adjunct shall be visible from a sidewalk;

(4) No sign or display indicating the existence of the adjunct shall be visible from the outside of the building;

(5) The center of the principal entrance of the apartment house shall be more than one-fourth (1/4) mile walking distance from the nearest MU, NC or PDR zone;

(6) Uses authorized under this section may also be permitted within an interior patio or other type of open ground level area subject to the restrictions of paragraph (a) through (d) of this section;

(7) In considering an application under this paragraph the Board of Zoning Adjustment shall give consideration to the following:

(A) The proximity of MU and NC zones;

(B) The adequacy and convenience of parking spaces existing in or for the MU and NC zones;

(C) The adequacy and scope of commodities and services provided within those MU and NC zones; and

(D) The size and character of the apartment house, since the tenants of the apartment house will be expected to furnish all or substantially all of the financial support of the requested adjunct; and

(h) A parking garage constructed as a principal use on a lot other than an alley lot in an RA-5 zone subject to the following conditions:

(1) The use shall comply with all provisions of Subtitle C, Chapter 23 of this title;

(2) No commercial advertising signs shall be permitted outside a building, except a sign advertising the rates as required by Chapter 6 of Title 24 DCMR, Public Space and Safety;

(3) The Board of Zoning Adjustment shall find that no dangerous or otherwise objectionable traffic conditions will result, that the present character and future development of the neighborhood will not be affected adversely, and that the parking garage is reasonably necessary and convenient to other uses in the vicinity; and

(4) Before taking final action on an application for the use, the Board of Zoning Adjustment shall submit the application to the D.C. Department of Transportation for review and report.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

421 NEW RESIDENTIAL DEVELOPMENTS (RA-1 and RA-6)

421.1 In the RA-1 and RA-6 zones, all new residential developments, except those comprising all one-family detached and semi-detached dwellings, shall be reviewed by the Board of Zoning Adjustment as special exceptions under Subtitle X, in accordance with the standards and requirements in this section.

421.2 The Board of Zoning Adjustment shall refer the application to the relevant District of Columbia agencies for comment and recommendation as to the adequacy of the following:

(a) Existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project; and

(b) Public streets, recreation, and other services to accommodate the residents that can be expected to reside in the project.

421.3 The Board of Zoning Adjustment shall refer the application to the Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the surrounding neighborhood, and the relationship of the proposed project to public plans and projects.

421.4 In addition to other filing requirements, the developer shall submit to the Board of Zoning Adjustment with the application a site plan and set of typical floor plans and elevations, grading plan (existing and final), landscaping plan, and plans for all new rights-of-way and easements.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

422 ADDITIONAL USE RESTRICTIONS AND CONDITIONS (RA)

422.1 This section shall modify uses of this chapter otherwise permitted as a matter of right or as a special exception.

422.2 In the RA-7 zones, the following uses shall not be permitted as a matter of right or as a special exception:

(a) Parking lot; provided, that a parking lot in existence on May 31, 1985 may continue subject to any conditions of the zone;

(b) Public utility pumping station;

(c) Storage of wares and goods on an alley lot; and

(d) Telecommunications facility.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

CHAPTER 5 USE PERMISSIONS MIXED USE (MU) ZONES

500 GENERAL USE PROVISION FOR MU ZONES

500.1 This chapter contains use permissions and any applicable conditions in the MU zones.

500.2 Use groups for the MU zones are as follows:

TABLE U § 500.2 MU-USE GROUPS:

MU-Use Group A	MU-Use Group B	MU-Use Group C	MU-Use Group D	MU-Use Group E	MU-Use Group F	MU-Use Group G
MU-1 MU-2 MU-15, MU-16 MU-23	MU-11	MU-12, MU-13 MU-14 CG-5 CG-6 CG-7	MU-3	MU-4, MU-5 MU-6 MU-17, MU-18 MU-19 MU-24, MU-25 MU-26, MU-27 CG-2	MU-7, MU-8 MU-9 MU-20, MU-21 MU-28 CG-3	MU-10 MU-22 MU-29 CG-4

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

501 MATTER-OF-RIGHT USES (MU)

501.1 The uses in this section shall be permitted as a matter of right in any MU zone except the MU-11 zone, subject to any applicable conditions.

501.2 Any use permitted as a matter of right in any R, RF, or RA zone shall be permitted as a matter of right in the MU, except the MU-11 zone.

501.3 Other accessory uses that are customarily incidental and subordinate to the principal uses permitted in this chapter shall be permitted.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

502 MATTER-OF-RIGHT USES (MU-USE GROUP A)

502.1 In addition to the uses permitted by Subtitle U § 501, the following uses shall be permitted in MU-Use Group A as a matter of right subject to any applicable conditions:

(a) Arts, design, and creation of the visual arts, including classes, subject to the following conditions:

(1) All operations and storage of materials shall occur inside the building; and

(2) Sales of art work produced by the occupants of the studio shall be permitted within the studio;

(b) Car-sharing spaces, none of which may be a required parking space for any use on site;

(c) Continuing care retirement community;

(d) Daytime care;

(e) General institutional;

(f) Office use, including chancery, shall be permitted as a matter of right as a replacement for office use authorized by a validly issued certificate of occupancy prior to January 29, 1999;

(g) Local government;

(h) Medical care;

(i) Parks and recreation;

(j) Private school, including kindergarten, elementary, secondary;

(k) Trade or any other school; and

(l) Utilities limited to only telephone exchange, electric substation using non-rotating equipment, and natural gas regulator station.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

503 ACCESSORY USES (MU-USE GROUP A)

503.1 Retail and general service uses shall be permitted as accessory uses and appropriate adjuncts to an apartment house or hotel, subject to the following conditions:

(a) The uses shall be oriented for the service and convenience of the tenants or guests of the building;

(b) There shall be no direct entrance to the commercial establishment from the outside of the building;

(c) There shall be no direct entrance to the commercial establishment from the outside of the building; and

(d) No sign or display indicating the existence of the adjunct shall be visible from the outside of the building.

503.2 A child development home or an expanded child development home shall be permitted as an accessory use in MU-Use Group A incidental to the uses permitted in this chapter; provided:

(a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and

(b) The use otherwise shall meet the definition of a home occupation.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

504 SPECIAL EXCEPTION USES (MU-USE GROUP A)

504.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to any applicable provisions of each section:

(a) Chancery use, subject to disapproval by the Board of Zoning Adjustment in accordance with Subtitle X;

(b) College or university use that is an academic institution of higher learning, including a college or university hospital, dormitory, fraternity, or sorority house proposed to be located on the campus of a college or university subject to the conditions of Subtitle X;

(c) Community-based institutional facilities (CBIF) for one (1) to twenty (20) persons, not including resident supervisors or staff and their families, subject to the following conditions:

(1) There shall be no other property containing a CBIF for seven (7) or more persons in the same square;

(2) There shall be no other property containing a CBIF for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the subject property;

(3) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

(4) The proposed facility shall meet all applicable code and licensing requirements;

(5) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area; and

(6) The Board of Zoning Adjustment may approve more than one (1) community-based institutional facility in a square or within five hundred feet (500 ft.) only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations;

(d) Emergency shelter for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families subject to the conditions of Subtitle U § 504.1 (c), CBIF;

(e) Institutional, religious program uses, subject to the following conditions:

(1) The part of the program conducted on the property shall be carried on within the existing place of worship building(s) or structure(s);

(2) The operation of the program shall be such that it is not likely to become objectionable in the zone because of noise and traffic;

(3) No sign or display indicating the location of the program shall be located on the outside of the building or the grounds; and

(4) Any authorization by the Board of Zoning Adjustment shall be limited to a period of three (3) years, but may be renewed at the discretion of the Board of Zoning Adjustment;

(f) Lodging for any number of guests, subject to the following conditions:

(1) The height, bulk, and design of the lodging use shall be in harmony with existing uses and structures on neighboring property;

(2) To ensure that the height, bulk, and design is in harmony with existing uses and structures on neighboring property, the Board of Zoning Adjustment may require special treatment in the way of design, building setbacks, screening, landscaping, sign controls, and other features as it deems necessary to protect neighboring property;

(3) The approval of the lodging use shall result in a balance of residential, office, and lodging uses in the applicable zones in the vicinity of the lodging use;

(4) The gross floor area devoted to function rooms and exhibit space shall not exceed fifteen percent (15%) of the gross floor area of the hotel;

(5) The lodging use shall be located within one thousand three hundred feet (1,300 ft.) of the Central Employment Area or a

Metrorail station as measured from the entrance of the lodging use closest to the main lobby and guest registration desk to the edge of the Central Employment Area or the entrance to the Metrorail station, following public rights-of-way;

(6) The Board of Zoning Adjustment may require more or less off-street parking spaces and loading berths than required by this title to accommodate the activities of the lodging use, so as to avoid unduly impacting parking or traffic on the surrounding streets; and

(7) The location and design of driveways, access roads, and other circulation elements of the lodging use shall be located to avoid dangerous or other objectionable traffic conditions;

(g) Construction of a new office building or construction of an addition to a building for office use, or conversion of an existing building to office use, subject to the following conditions:

(1) The use, height, bulk, and design shall be in harmony with existing uses and structures on neighboring property; and

(2) The use shall not create dangerous or other objectionable traffic conditions;

(h) Parking, as an accessory use located elsewhere than on the same lot as the principal use, subject to the following conditions:

(1) The total number of parking spaces provided for the principal use shall not exceed the minimum number of spaces required for the principal use;

(2) It shall be considered economically impracticable or unsafe to locate the parking spaces within the principal building or on the same lot on which the building or use is permitted because of the following:

(A) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot;

(B) Unusual topography, grades, shape, size, or dimensions of the lot;

(C) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or

(D) Traffic hazards caused by unusual street grades or other conditions; and

(3) The parking spaces shall be located and all facilities in relation to the parking spaces shall be designed so that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions;

(i) Parking garages, subject to the following conditions:

(1) The use and all related facilities shall be located and designed so that they are not likely to become objectionable to adjoining and nearby property because of noise, traffic, or other objectionable conditions;

(2) The present character and future development of the neighborhood shall not be affected adversely by the use;

(3) The parking garage shall serve either residential uses or provide short-term parking for retail, service, and public facility uses, but shall not provide all-day commuter parking;

(4) The parking provided shall be within eight hundred feet (800 ft.) of the use to be served, and shall be necessary to that use; and

(5) Minor services for users of the garage such as hand-washing, polishing, interior detailing, tire inflation, and battery charging and electric vehicle charging stations shall be permitted as accessory uses within a permitted parking garage;

(j) Retail, service (general), and eating and drinking establishment uses subject to the following conditions:

(1) The properties are in the MU-2 or MU-23 zone district;

(2) The properties are those located south of M Street, N.W. and N.E.;

(3) The uses shall be located on or below the ground floor of the building;

(4) The uses shall not include a drive-through; and

(5) The uses shall be located and designed such that they are not likely to become objectionable to neighboring properties because of noise, traffic, or other objectionable conditions; and

(k) Utility uses other than those permitted as a matter of right, subject to the following conditions:

(1) A use is determined necessary in the public interest by the Public Service Commission;

(2) Any requirements for setbacks, screening, or other safeguards that the Board of Zoning Adjustment deems necessary for the protection of the neighborhood; and

(3) Any new construction of a freestanding structure for use as an optical transmission node shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping, and there shall be no advertisement on the structure.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

505 MATTER-OF-RIGHT USES (MU-USE GROUP B)

505.1 The uses in this section shall be permitted in MU-Use Group B as a matter of right subject to any applicable conditions.

505.2 The following marine uses shall be permitted as a matter of right:

(a) Boat construction on an occasional basis by a local community organization;

(b) Community garden operated by a local community organization or District government agency;

(c) Publicly accessible park or open space, playground, or athletic field, including pedestrian and bicycle trails, necessary support facilities, and fitness circuits;

(d) Public nature education or interpretive center including a boat dock;

(e) Seasonal or occasional market for produce, arts, and crafts, with non-permanent structures;

(f) Floating homes within a permitted marina or yacht club, provided that the maximum density of floating home berths shall not exceed fifty percent (50%) of the total number of berths in the marina or yacht club; and

(g) A home occupation within a floating home.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

506 SPECIAL EXCEPTION USES (MU-USE GROUP B)

506.1 The following uses shall be permitted as a special exception in the MU-11 if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to any applicable provisions of each section and the requirements of Subtitle U §§ 506.3 through 506.8:

(a) Boathouse, subject to the following conditions:

(1) A boathouse may include rest rooms, showers, locker rooms, kitchen, exercise area, boat storage and maintenance, coach's office, one (1) caretaker's residence pursuant to Subtitle U § 506.1(b), rowing tank, dock, and related functions; and one (1) or more motorized safety launches for coaches are allowed for supervision of rowing practice and water safety;

(2) A demonstration that the boathouse and associated structures:

(3) Will be designed to enhance the visual and recreational opportunities offered along the waterfront;

(4) Will not result in the filling of normally submerged areas, and will minimize excavation to that reasonably required for a facility that is principally above-grade;

(5) Will be located so as not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking; and

(6) One (1) or more motorized safety launches for coaches are allowed for supervision of rowing practice and water safety;

(b) Caretaker’s residence subject to the following conditions:

(1) The caretaker's residence shall be located within the principal building and exclusively for the use of the facility's caretaker and immediate family; and

(2) If the caretaker's residence is larger than one thousand two hundred square feet (1,200 sq. ft.), it shall occupy no more than twenty percent (20%) of the total area of the principal building;

(c) Floating homes within a permitted marina or yacht club with a proposed maximum density of floating home berths in excess of fifty percent (50%) of the total number of berths in the marina or yacht club;

(d) Marina, which may also include the following as accessory uses:

(1) An office for the operation of the marina;

(2) Boat launching;

(3) The sale of marine fuels;

(4) Minor repairs and maintenance to boats and marine engines;

(5) The rental of boats; and

(6) Retail sales of supplies and services for small pleasure and commercial vessels;

(e) Parking, for uses within this chapter that are located elsewhere than on the lot on which the use is located:

(1) The parking spaces will be located to furnish reasonable and convenient parking for patrons of the principal building;

(2) Any support facility in relation to the parking spaces is designed so as not likely to become objectionable to adjoining or nearby property, park space, or the waterfront because of noise, traffic, or other objectionable conditions; and

(3) The parking spaces will be adequately screened from adjacent park space and from the waterfront, and shall be designed to prevent storm water run-off directly into the river;

(f) Retail;

(g) Arts, design, and creation uses;

(h) Entertainment, assembly, and performing arts uses; and

(i) Yacht club provided the applicant shall demonstrate that the yacht club and associated facilities:

(1) Will be primarily for the use of the members of the yacht club, except that the yacht club may provide transient berths;

(2) Will be located so as not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking; and

(3) Will not result in the filling of normally submerged areas and will minimize excavation to that reasonably required for a facility that is principally above-grade.

506.2 Off-street parking spaces shall be provided in the amount and manner specified in Subtitle C.

506.3 With respect to any special exception use under consideration in the MU-11 zone, the Zoning Commission may authorize the following if the applicant is able to demonstrate that application of normally applied zoning regulations would result in an infeasible project and would hinder furtherance of the objectives of the waterfront areas:

(a) An increase of not more than five percent (5%) in the maximum lot occupancy, height, or floor area ratio as otherwise prescribed in this title. The Zoning Commission shall have the option to approve a greater increase if the subject property is surrounded by National Park Service lands; or

(b) A reduction of not more than five percent (5%) of the minimum setback or court requirements as otherwise prescribed in this title. The Zoning Commission shall have the option to approve a greater decrease if the subject property is surrounded by National Park Service lands.

506.4 When applying for special exception under this section an applicant shall also demonstrate:

(a) The buildings, structures, and uses will enhance the visual and public recreational opportunities offered along the waterfront;

(b) Buildings, structures, and uses on land will be located and designed to minimize adverse impacts on the river and riverbank areas;

(c) If the proposed use is a boathouse, marina, or yacht club, the buildings will be located entirely on shore directly in front of berths, separated only by the setback area described in Subtitle C, Chapter 11, unless doing so would result in an infeasible project and would hinder furtherance of the objectives of the MU-11 zone;

(d) Buildings, structures, and uses on, under, or over water will be located and designed to minimize adverse impacts on the river and riverbank areas;

(e) All structures and buildings will be located so as not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking, and so as not to limit public access along or to the waterfront, other than directly in front of the principal building or structure of a boathouse, marina, or yacht club;

(f) Impervious surfaces will be minimized, and buildings, structures, and other uses will be designed and sited to minimize potential for surface storm water run-off directly into the river;

(g) Screening, coping, setbacks, fences, the location of entrances and exits, or any other consideration for accessory or non-accessory parking spaces will be designed to screen and protect adjacent parkland and the waterfront; and

(h) Emergency access will be provided to any buildings, structures, or other space devoted to active public use.

506.5 An applicant for a special exception under this section shall provide the following information:

(a) A survey plan showing:

(1) Existing vertical contours at two-foot (2-ft.) intervals;

(2) The one hundred (100)-year floodplain and all existing streams, wetlands, and bodies of water, as well as general drainage patterns with arrows indicating the directions of major drainage flow;

(3) Existing vegetation, including a listing of most abundant species; and

(4) All existing disturbed areas, including the locations of utilities, paved areas, streets, culverts, storm water management systems, and bridges;

(b) A proposed site plan showing:

(1) The proposed location, height, bulk, and design of all improvements, including buildings, structures, pedestrian and vehicular access, parking, piers and wharves, berths, utilities, paved areas, culverts, storm water management, and bridges;

(2) Suitable open space treatment of a waterfront setback area, as required in Subtitle C, Chapter 11, for uses such as walkway, bikeway, passive or active recreation; and including provisions assuring private maintenance of the space, convenient and public access to the space, and suitable connections to adjacent public space along the waterfront;

(3) Proposed grading, including a calculation of the amount of cutting from and filling to natural grade;

(4) Proposed landscaping, including riverbank treatment/restoration; and

(5) The location and design of fencing, gates, screening, exterior lighting, and signage;

(c) A parking plan showing:

(1) The location and design of parking spaces, access driveways, and other impervious surface landscaping;

(2) The location and design of emergency vehicle access to all buildings, structures, and active public spaces; and

(3) For boathouse, marina, and yacht club facilities, a parking management plan for special events (such as regattas); and

(d) A description of activities proposed to be conducted at the site.

506.6 Before commencement of a public hearing on an application for any special exception in the MU-11 zoning district, the Zoning Commission or Board of Zoning Adjustment shall refer the application to the Office of Planning for coordination, review, and report. The application shall include reports and recommendations from the Departments of Energy and Environment and Transportation and all other appropriate agencies.

506.7 A report submitted by the Office of Planning under this section. shall specifically address the environmental impact of the proposed use, as that impact is identified by the Department of Energy and Environment; provided that any such report is not intended to be, and shall not be construed to constitute, the functional equivalent of an Environmental Impact Assessment or Statement.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

507 MATTER-OF-RIGHT USES (MU-USE GROUP C)

507.1 In addition to the uses permitted by Subtitle U § 501, the following uses shall be permitted in MU-Use Group C as a matter of right subject to any applicable conditions:

(a) Any use within the following use categories:

(1) Agricultural, both residential and large;

(2) Arts design and creation, including an artist live-work studio;

(3) Art gallery and museum;

(4) Daytime care;

(5) Eating and drinking establishments, except a drive-through operation shall not be permitted;

(6) Emergency shelter for not more than four (4) persons, not including resident supervisors or staff and their families;

(7) Group instruction center or studio;

(8) Local government uses except a Driver's License Road Test Facility shall only be permitted in the MU-12 and MU-13 zones;

(9) Institutional uses, both general and religious;

(10) Lodging;

(11) Marine;

(12) Medical care facilities, including hospice care;

(13) Office uses, including chanceries;

(14) Parks and recreation;

(15) Retail;

(16) Service uses, both financial and general; and

(17) Theater, either private or public, for the purpose of entertainment, assembly, and performing arts; and

(b) Other accessory uses customarily incidental and subordinate to the uses permitted by this section.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

508 SPECIAL EXCEPTION USES (MU-USE GROUP C)

508.1 Unless specifically prohibited by Subtitle U § 509, the following uses shall be permitted in MU-Use Group C if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to the following conditions:

(a) College or university use that is an academic institution of higher learning, including a college or university hospital, dormitory, fraternity, or sorority house proposed to be located on the campus of a college or university, subject to the conditions of Subtitle X;

(b) Community-based institutional facilities for one (1) to twenty (20) persons, not including resident supervisors or staff and their families;

(c) Education (private) uses, subject to the following conditions:

(1) The facility shall be designed to enhance the visual and recreational opportunities offered by the waterfront; and

(2) The use shall be designed and located so that it is not likely to become objectionable because of noise, traffic, number of students, or other conditions;

(d) Emergency shelter for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families;

(e) Entertainment, assembly, and performing arts uses, subject to the following conditions:

(1) The use shall not be within twenty-five feet (25 ft.) of a residentially zoned or used property unless separated by a public street or public alley; and

(2) Soundproofing to the extent deemed necessary for the protection of adjoining and nearby property shall be required;

(f) Medical care uses subject to the following conditions:

(1) The facility shall be designed to enhance the visual and recreational opportunities offered by the waterfront;

(2) The facility shall be located so that it is not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking;

(3) There shall be a demonstrated need for the facility;

(4) The applicant shall submit to the Board of Zoning Adjustment a detailed plan for the hospital or clinic and accessory facilities which shall include:

(A) Location, height, and bulk of all improvements, but not limited to buildings, parking, and loading facilities;

(B) Screening, signs, and public utility facilities; and

(C) A description of the activities to be carried on at the hospital or clinic, including the capacities of the various facilities within the hospital or clinic;

(g) Miscellaneous uses, subject to the following conditions:

(1) The Board of Zoning Adjustment finds that the use is appropriate in furthering the objectives of the waterfront areas;

(2) The facility shall be designed to enhance the visual and recreational opportunities offered by the Waterfront;

(3) The use shall not adversely affect the present character or future development of the neighborhood; and

(4) No dangerous or otherwise objectionable traffic conditions shall result from the establishment of the use;

(h) Parking subject to a temporary surface parking lot accessory to the Ballpark shall be permitted on Squares 664E, 707, 708, 708E, 708S, or 744S, in accordance with Subtitle C § 718. In the event that the cumulative parking limit established in Subtitle C § 718.2 is met, additional temporary surface parking spaces accessory to the Ballpark on Squares 664E, 707, 708, 708E, 708S, or 744S shall be permitted as a special exception in a MU-13 zone if approved by the Board of Zoning Adjustment pursuant to Subtitle C § 718.7;

(i) Production, distribution, and repair uses, subject to the following conditions:

(1) The facility shall be designed to enhance the visual and recreational opportunities offered by the waterfront;

(2) The use shall comply with the standards of external effects and shall have no adverse effects on other uses on the same or adjoining properties;

(3) The use shall not result in dangerous or otherwise objectionable traffic conditions;

(4) There shall be adequate off-street parking for trucks and other service vehicles; and

(5) There shall be no outdoor storage of materials;

(j) Utility uses, subject to the following conditions:

(1) Any requirements for setbacks, screening, or other safeguards that the Board of Zoning Adjustment deems necessary for the protection of the neighborhood; and

(2) Any new construction of a freestanding structure for use as an optical transmission node shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping, and there shall be no advertisement on the structure;

(k) Veterinary office or hospital subject to the following conditions:

(1) A veterinary hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808(h)(1), except domesticated dogs;

(2) No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals;

(3) The veterinary hospital shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;

(4) The veterinary hospital shall not abut an existing residential use or a residential zone;

(5) External yards or other external facilities for the keeping of animals shall not be permitted; and

(6) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and

(l) Any use permitted as a matter of right in MU-Use Group C that does not comply with the required conditions for MU-Use Group C may apply for permission as a special exception, except for a drive-through operation as a principal or accessory use.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

509 USES NOT PERMITTED (MU-USE GROUP C)

509.1 The following uses shall not be permitted in MU-Use Group C as a matter of right or as a special exception:

(a) Any establishment that has as a principal use the administration of massages that is not part of a health facility;

(b) Automobile or motorcycle sales or repairs;

(c) Car wash;

(d) Carting, express, moving, or hauling terminal or yard;

(e) Chemical manufacturing, storage, or distribution;

(f) Drive-through operation as either a principal or accessory use;

(g) Enameling, plating, or painting (except artist's studio) as a principal use;

(h) Firearms retail sales establishment;

(i) Gasoline service station;

(j) Material salvage;

(k) Outdoor advertising or billboard;

(l) Outside material storage;

(m) Packing or crating operation;

(n) Parking Lot:

(1) Except a temporary surface parking lot permitted pursuant to Subtitle C § 718; or

(2) Other than as permitted as a special exception in the MU-11 District in Subtitle U § 506.3;

(o) Smelting or rendering; and

(p) Sexually-oriented business establishment.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

510 MATTER-OF-RIGHT USES (MU-USE GROUP D)

510.1 The following uses shall be permitted in MU-Use Group D as a matter–of-right subject to any applicable conditions:

(a) Any use permitted as a matter of right in any R, RF, or RA zone;

(b) Agricultural, both residential and large;

(c) Arts design and creation, including an artist live-work studio;

(d) Art gallery and museum;

(e) College or university uses, except that a use that would otherwise not be permitted as a matter of right but for the university or college shall not be permitted;

(f) Daytime care uses for no more than five (5) persons, not including resident supervisors or staff and their families, except a child development home or an expanded child development home shall be permitted as an accessory use incidental to the uses permitted in MU-Use Group D; provided:

(1) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and

(2) The use otherwise shall meet the definition of a home occupation;

(g) Eating and drinking establishment uses, except for:

(1) A drive-through or drive-in operation and a food delivery service shall not be permitted;

(2) A prepared food shop in Square 5912 shall have no limitation on seats; and

(3) A fast food establishment shall not be permitted in the MU-3 zone except for a fast food establishment with no drive-through shall be permitted in Square 5912, Square 3499 (Lot 3), and Square 3664 (Lot 820) as a matter of right;

(h) Emergency shelter for not more than four (4) persons, not including resident supervisors or staff and their families;

(i) Entertainment, assembly, and performing arts uses shall be permitted as a matter of right, except for a bowling alley;

(j) Gasoline service station with a valid certificate of occupancy that has not been replaced by another use with a valid certificate of occupancy;

(k) Gasoline service station as an accessory use to a parking garage or public storage garage; provided:

(1) All portions of the gasoline service station shall be located entirely within the garage;

(2) No part of the accessory use shall be visible from a sidewalk; and

(3) Signs or displays indicating the existence of the accessory use shall not be visible from the outside of the garage;

(l) Group instruction center or studio;

(m) Institutional uses, general, and religious;

(n) Local government;

(o) Lodging;

(p) Marine;

(q) Medical care facilities, including hospice care;

(r) Office uses, including chanceries;

(s) Optical transmission node;

(t) Parking garage, which may include a car wash and interior detailing, as a permitted accessory use within the permitted parking garage;

(u) Parks and recreation;

(v) Retail, except for large format retail;

(w) Service uses, both financial and general, subject to the following limitations:

(1) The use does not involve installation of automobile accessories; and

(2) A laundry or dry cleaning facility shall not exceed twenty-five hundred square feet (2,500 sq. ft.) of gross floor area;

(3) An indoor storage facility not exceeding twenty-five hundred square feet (2,500 sq. ft.) of gross floor area; and

(x) Other accessory uses customarily incidental and subordinate to the uses permitted by this section.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

511 SPECIAL EXCEPTION USES (MU-USE GROUP D)

511.1 The following uses in this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section.

(a) College or university uses that would otherwise not be permitted as a matter of right within the zone, subject to the conditions of Subtitle X;

(b) Community-based institutional facilities for one (1) to twenty (20) persons, not including resident supervisors or staff and their families;

(c) Daytime care for six (6) and fifteen (15) persons, not including resident supervisors or staff and their families;

(d) Emergency shelter for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the following conditions:

(1) There shall be no other property containing an emergency shelter for seven (7) or more persons in the same square, or within a radius of five hundred feet (500 ft.) from any portion of the property;

(2) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

(3) The proposed shelter shall meet all applicable code and licensing requirements;

(4) The shelter shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area; and

(5) The Board of Zoning Adjustment may approve more than one (1) emergency shelter facility in a square or within five hundred feet (500 ft.) from the property only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations;

(e) Entertainment, assembly, and performing arts uses, except a bowling alley shall not be permitted, subject to the following conditions:

(1) The use shall not be within twenty-five feet (25 ft.) of a residentially zoned property unless separated by a street or alley; and

(2) Soundproofing to the extent deemed necessary for the protection of adjoining and nearby property shall be required;

(f) Gasoline service station to be established or enlarged, subject to the following conditions:

(1) The station shall not be located within twenty-five feet (25 ft.) of a residential zone or unless separated from the residential zone by a street or alley;

(2) The operation of the use shall not create dangerous or other objectionable traffic conditions; and

(3) Required parking spaces may be arranged so that all spaces are not accessible at all times. All parking spaces provided under this subsection shall be designed and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicles without moving any other vehicle onto public space;

(g) Parking, for uses within this chapter that are located elsewhere than on the lot on which the use is located but within the square in which the principal use is located;

(h) Prepared food shop eating and drinking establishment uses with more than eighteen (18) seats for patrons;

(i) Retail uses otherwise permitted with conditions that do not comply with the conditions;

(j) Retail, large format, subject to the following conditions:

(1) The development standards and design guidelines contained within this section apply to all new large format retail establishments with single tenant space of fifty thousand (50,000) gross square feet or greater;

(2) The use shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, parking, loading, deliveries, lighting, trash compacting and collection, hours of operation, or otherwise objectionable conditions;

(3) Sufficient automobile parking, but not less than that required in Subtitle C, Chapter 7, shall be provided to accommodate the employees and customers;

(4) An application under this section shall include the following information:

(A) A general site and development plan, indicating the proposed use, location, dimensions, number of stories, and height of building;

(B) A study of site characteristics and conditions;

(C) A description of existing topography, soil conditions, vegetation and drainage consisting of written material, plats, maps and photographs;

(D) Proposed topography including street grades and other grading contours;

(E) Identification of mature trees to remain and percent of site to be covered by impervious surface;

(F) Proposed drainage and sewer system and water distribution;

(G) Proposed treatment of existing natural features, such as steep slopes, ravines, natural watercourses;

(H) Proposed method of solid waste collection;

(I) Estimated water consumption (gallons per year);

(J) A transportation study, containing the following:

(1) Proposed circulation plan, including the location of vehicular and pedestrian access ways, other public space and the location and number of all off-street parking and loading spaces, loading berths and service delivery spaces;

(2) Estimated number and type of trips assumed to be generated by project, and assumed temporal and directional distribution;

(3) Traffic management requirements (lights, stop signs, one-way streets, etc.);

(4) Relationship of the proposed project to the mass transit system (nearest bus stops and routes, nearest Metrorail stations, etc.); and

(5) Vehicular trip generation, trip assignment and before-and-after capacity analyses and level of service at critical intersections; and

(6) Any other information needed to fully understand the final building proposed for the site;

(7) An applicant requesting approval under this section must demonstrate that the proposed use, building, or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will:

(A) Be in context with the surrounding street patterns;

(B) Minimize unarticulated blank walls adjacent to public spaces through facade articulation, materials, display windows, entries, and other architectural efforts; and

(C) Will not result in light spillage off the site;

(8) Where additional stores or individual uses are located within a large format retail use, each such store shall have at least one (1) exterior customer entrance;

(9) The following list should be considered as guidelines for the design of large format retail buildings:

(A) Building design shall incorporate architectural features and patterns to provide visual interest;

(B) Exterior walls shall feature projections and recesses;

(C) Building roofs shall incorporate pitched rooflines and detailed roofing materials;

(D) Building materials shall include stone, wood, brick, glass, and metal in keeping with the surrounding architectural context;

(E) Entryways shall be well-marked and engaging and provide connection via wide sidewalks to primary streets and parking;

(F) Building design shall incorporate sustainable measures to include solar energy, geothermal heating and cooling, and use of permeable paving for surface parking areas; and

(G) Landscaping shall be provided in the rear and side yards to screen and limit visibility of storage areas;

(10) This section shall not apply to the following:

(A) Large format retail that would occupy a planned unit development approved as of the effective date of this title; or

(B) Large format retail that would occupy a project with a completed review under the large tract review regulations (Title 10-B DCMR, Chapter 23) as of the effective date of this title; except that a modification to a completed large tract review that would result in a project with fifty thousand square feet (50,000 sq. ft.) or more of retail use shall also require approval under this section prior to certificate of occupancy for a use meeting the definition of large format retail;

(k) Service uses permitted as a matter of right with conditions that do not comply with the conditions;

(l) Utilities uses, subject to the requirements for setbacks, screening, or other requirements as the Board of Zoning Adjustment deems necessary for the protection of neighboring or adjacent property; and

(m) Veterinary office or hospital subject to the following conditions:

(1) A veterinary hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808(h)(1), except domesticated dogs;

(2) No more than fifty percent (50%) of the gross floor area of the veterinary hospital may be devoted to the boarding of animals;

(3) The veterinary hospital shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;

(4) The veterinary hospital shall not abut an existing residential use or a residential zone;

(5) External yards or other external facilities for the keeping of animals shall not be permitted;

(6) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and

(7) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

511.2 Any use permitted as a matter of right in MU-Use Group D that does not comply with the required conditions for MU-Use Group D may apply for permission as a special exception, except uses involving the installation of automobile accessories or fast food establishments.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

512 MATTER-OF-RIGHT USES (MU-USE GROUP E)

512.1 The following uses shall be permitted in MU-Use Group E as a matter of right subject to any applicable conditions:

(a) Uses permitted as a matter of right in any R, RF, and RA zones, and all uses permitted as a matter of right for MU-Use Group D of this chapter, unless otherwise modified by Subtitle U § 514;

(b) College or university uses, except that in the MU-4 zone, a use that would otherwise not be permitted as a matter of right but for the university or college shall not be permitted;

(c) Daytime care uses for not more than twenty (20) persons, not including resident supervisors or staff and their families;

(d) Eating and drinking establishment uses, subject to the following conditions:

(1) A fast food establishment or food delivery service shall not be permitted within the MU-4, MU-17, MU-24, MU-25, MU-26, and MU-27 zones;

(2) A fast food establishment or food delivery service in all other MU-Use Group E zones, subject to the following conditions:

(A) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a residential zone, unless separated therefrom by a street or alley;

(B) If any lot line of the lot abuts an alley containing a zone district boundary line for a residential zone, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line;

(C) Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a residential zone;

(D) The use shall not include a drive-through; and

(E) Subparagraphs (A) and (B) shall not apply to a fast food establishment located in Square 5912;

(3) A prepared food shop in a MU-4, MU-17, MU-24, MU-25, MU-26, and MU-27 zone shall be limited to eighteen (18) seats for patrons;

(e) Education uses, private:

(f) Entertainment, assembly, and performing arts uses, except that a bowling alley shall be subject to the following conditions:

(1) The use shall not be within twenty-five feet (25 ft.) of a residentially zoned property unless separated by a street or alley; and

(2) Soundproofing to the extent deemed necessary for the protection of adjoining and nearby property shall be required;

(g) Firearms retail sales establishments, except that no portion of the establishment shall be located within three hundred feet (300 ft.) of:

(1) Any R, RF, RA, MU-1 or MU-2 zone; or

(2) A place of worship, public or private school, public library, or playground;

(h) Gasoline service station as an accessory use to a parking garage or public storage garage; provided:

(1) All portions of the gasoline service station shall be located entirely within the garage;

(2) No part of the accessory use shall be visible from a sidewalk;

(3) Signs or displays indicating the existence of the accessory use shall not be visible from the outside of the garage; and

(4) The use shall not be permitted in the MU-4, MU-17, MU-25, and MU-27 zones;

(i) Optical transmission node;

(j) Retail uses, except for a large format retail use, subject to the off-premises beer and wine sales accessory use in the grocery store located in Square 2572, Lot 36, may continue, provided that it shall not occupy more than two thousand seventy-eight square feet (2,078 sq. ft.) of the store's gross floor area;

(k) Service (general) uses subject to the following conditions:

(1) A laundry or dry cleaning facility shall not exceed twenty-five hundred square feet (2,500 sq. ft.) of gross floor area; and

(2) In the MU-4, MU-17, MU-25, and MU-27 zones, uses involving the installation of automobile accessories shall not be permitted; and

(l) Other accessory uses customarily incidental and subordinate to the uses permitted by this section.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

513 SPECIAL EXCEPTION USES (MU-USE GROUP E)

513.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

(a) Animal care and boarding, and animal sales uses, subject to the following conditions:

(1) When located in a nonresidential building or on a property not zoned residential, the use shall not abut nor be closer than twenty-five feet (25 ft.) to any property line of an existing residential use or a residential zone;

(2) When located in a mixed-use building, the use shall not be on the same floor as a residential use and shall be horizontally separated from any residential use by at least one (1) floor of nonresidential use;

(3) The use shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste; and shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping;

(4) External yards or other external facilities for the keeping of animals shall not be permitted, except that an Animal Shelter may have external yards or other external facilities for the keeping of animals which shall be entirely located a minimum of two hundred feet (200 ft.) from an existing residential use or residential zone; and

(5) All animal waste shall be placed in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odors shall be controlled by means of an air filtration system (for example, High Efficiency Particulate Air [HEPA] filtration) or an equivalently effective odor control system;

(b) Emergency shelter for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the following standards and requirements:

(1) There shall be no other property containing an emergency shelter for seven (7) or more persons in the same square or within a radius of five hundred feet (500 ft.) from any portion of the subject property;

(2) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

(3) The proposed facility shall meet all applicable code and licensing requirements;

(4) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area;

(5) The Board of Zoning Adjustment may approve more than one (1) emergency shelter in a square or within five hundred feet (500 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations; and

(6) The Board of Zoning Adjustment may approve an emergency shelter for more than twenty-five (25) persons, not including resident supervisors or staff and their families, only if the Board of Zoning Adjustment finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District;

(c) Fast food establishments or food delivery service eating and drinking establishments in the MU-4, MU-17, MU-25, and MU-27 zones, subject to the following conditions:

(1) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a R, RF, or RA zone, unless separated therefrom by a street or alley;

(2) If any lot line of the lot abuts an alley containing a zone district boundary line for a residential zone, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line. The brick wall shall not be required in the case of a building that extends for the full width of its lot;

(3) Any refuse dumpster shall be housed in a three (3)-sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a residential zone;

(4) The use shall not include a drive-through;

(5) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions;

(6) The use shall provide sufficient off-street parking, but not less than that required by Subtitle C, Chapter 7 to accommodate the needs of patrons and employees;

(7) The use shall be located and designed so as to create no dangerous or otherwise objectionable traffic conditions; and

(8) The Board of Zoning Adjustment may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property;

(d) Gasoline service station to be established or enlarged, or a repair garage not including body and fender work, subject to the following conditions:

(1) The station shall not be located within twenty-five feet (25 ft.) of a residential zone or unless separated from the residential zone by a street or alley;

(2) The operation of the use shall not create dangerous or other objectionable traffic conditions; and

(3) Required parking spaces may be arranged so that not all spaces are accessible at all times. All parking spaces provided under this subsection shall be designed and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicles without moving any other vehicle onto public space;

(e) Massage establishment that has as a principal use the administration of massages subject to the following conditions:

(1) The establishment shall be compatible with other uses in the area;

(2) The use shall not be objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions; and

(3) The establishment shall not have an adverse impact on religious, educational, or other institutional facilities located in the area;

(f) Motorcycle sales and repair;

(g) Parking, for uses within this chapter that are located elsewhere than on the lot on which the use is located but within the square in which the principal use is located;

(h) Retail uses otherwise permitted with conditions that do not comply with the conditions;

(i) Retail, large format, subject to the conditions of Subtitle U § 511.1(j);

(j) Service uses that are permitted with conditions, that do not comply with the prescribed conditions;

(k) Utilities uses, subject to the requirements for setbacks, screening, or other requirements, as the Board of Zoning Adjustment deems necessary for the protection of neighboring or adjacent property;

(l) Veterinary office or hospital, subject to the following conditions:

(1) A veterinary hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808(h)(1), except domesticated dogs;

(2) No more than fifty percent (50%) of the gross floor area of the veterinary hospital may be devoted to the boarding of animals subject to the spacing requirements of Subtitle U § 513.2(a);

(3) The veterinary hospital shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;

(4) The veterinary hospital shall not abut an existing residential use or a residential zone;

(5) External yards or other external facilities for the keeping of animals shall not be permitted;

(6) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and

(7) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby properties; and

(m) Any use permitted as a matter of right in MU-Use Group E that does not comply with the required conditions for MU-Use Group E may apply for permission as a special exception except firearms retail sales establishments.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

514 PROHIBITED USES (MU-USE GROUP E)

514.1 This section prohibits uses otherwise permitted by this chapter as a matter of right or as a special exception.

514.2 In the MU-24 and MU-26 zones, the following uses are prohibited:

(a) Car wash;

(b) Automobile or truck sales;

(c) Automobile rental agency;

(d) Boat or other marine sales;

(e) Drive-in restaurant;

(f) Electric substation or natural gas regulator station;

(g) Gasoline service station as a principal or an accessory use;

(h) Installation of automobile accessories;

(i) Motorcycle sales and repairs;

(j) Parcel delivery service;

(k) Parking lot, parking garage, or public storage garage; and

(l) Public utility pumping station.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

515 MATTER-OF-RIGHT USES (MU-USE GROUP F)

515.1 The following uses shall be permitted in MU-Use Group F as a matter of right, subject to any applicable conditions:

(a) Uses permitted as a matter of right in any R, RF, and RA zones and all uses permitted as a matter of right for MU-Use Group E of this chapter;

(b) Amusement enterprise;

(c) College or university that is an academic institution of higher learning, including a college or university hospital, dormitory, fraternity, or sorority house proposed to be located on the campus of a college or university;

(d) Community-based institutional facilities;

(e) Daytime care;

(f) Eating and drinking establishments with no restrictions;

(g) Emergency shelter;

(h) Laundry or dry cleaning establishment, not exceeding five thousand square feet (5,000 sq. ft.) of gross floor area;

(i) Motorcycle sales and repair, only in MU-9 zone provided:

(1) The use and all its accessory facilities shall be located within a building; and

(2) No portion of a building used for motorcycle sales or repair shall be located within fifty feet (50 ft.) of a R, RF, or RA zone or MU-1 or MU-2 zone;

(j) Printing, lithographing, or photoengraving establishment, with no limitation on gross floor area;

(k) Electronic Equipment Facility (EEF) use under either or both of the following circumstances:

(1) The EEF use occupies no more than twenty-five percent (25%) of the above ground constructed gross floor area of the building; or

(2) The EEF use is located below ground floor;

(l) In the MU-9 zone, any establishment that has as a principal use the administration of massages, provided that no portion of the establishment shall be located within two hundred feet (200 ft.) of a R, RF, or RA zone; and

(m) Other accessory uses customarily incidental and subordinate to the uses permitted by this section.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

516 SPECIAL EXCEPTION USES (MU-USE GROUP F)

516.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

(a) Retail, large format, subject to the conditions of Subtitle U § 511.1(j);

(b) Sexually-oriented business establishment in the MU-9 or MU-21 zone, subject to the following conditions:

(1) No portion of the establishment shall be located within six hundred feet (600 ft.) of a R, RF, RA, MU-1, MU-2, MU-15, MU-16, or MU-23 zone;

(2) No portion of the establishment shall be located within six hundred feet (600 ft.) of a church, school, library, playground, or the area under the jurisdiction of the Commission of Fine Arts pursuant to

the Shipstead-Luce Act, approved May 16, 1930 (46 Stat. 366, as amended; D.C. Official Code § 6-611.01 (formerly codified at D.C. Official Code § 5-410 (1994 Repl.)));

(3) No portion of the establishment shall be located within three hundred feet (300 ft.) of any other sexually-oriented business establishment;

(4) There shall be no display of goods or services visible from the exterior of the premises;

(5) The establishment shall be compatible with other uses in the area;

(6) The use shall not become objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions; and

(7) The establishment shall not have an adverse impact on religious, educational, or governmental facilities located in the area; and

(c) Any use permitted as a matter of right in MU-Use Group F that does not comply with the required conditions for Use Group F may apply for permission as a special exception, except firearms retail sales establishments.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

517 MATTER-OF-RIGHT USES (MU-USE GROUP G)

517.1 The following uses shall be permitted in MU-Use Group G as a matter of right subject to any applicable conditions:

(a) Uses permitted as a matter of right in any R, RF, and RA zones, and all uses permitted as a matter of right for MU-Use Group F of this chapter, unless required as a special exception in Subtitle U § 518 or not permitted by Subtitle U § 519;

(b) Health care facility for not more than six (6) persons, not including resident supervisors or staff and their families; or for not more than eight (8) persons, including resident supervisors or staff and their families; provided, that the number of persons being cared for shall not exceed six (6); and

(c) Notwithstanding Subtitle U § 519, the following parking uses shall be permitted:

(1) A temporary surface parking lot accessory to the Ballpark shall be permitted on Squares 603, 605, 657, 660, 661, 662, 662E, 664,

665, 700, 701, 882; and on Square 658, Lot 7; Square 767, Lots 44-47; Square 768, Lots 19-22; and Square 769, Lot 19 and those portions of Lots 18 and 20 within the MU-10 zone, in accordance with Subtitle C § 718. In the event that the cumulative parking limit established in Subtitle C § 718.2 is met, additional temporary surface parking spaces accessory to the Ballpark on Squares 603, 605, 657, 658, 660, 661, 662, 662E, 664, 665, 700, 701, 882; and on Square 767, Lots 44-47; Square 768, Lots 19-22; and Square 658, Lot 7; Square 769, Lot 19 and those portions of Lots 18 and 20 within the MU-10 zone, shall be permitted as a special exception if approved by the Board of Zoning Adjustment pursuant to Subtitle C § 718.7; and

(2) Not subject to any otherwise applicable proximity requirement, a surface parking lot accessory to the Washington Metropolitan Area Transit Authority garage facility located on Square 700, Lot 857, is permitted as a temporary use on:

(3) Square 661, Lot 805, for a period of five (5) years maximum, beginning from the date of issuance of a certificate of occupancy for such use, with the five (5)-year period renewable by the Zoning Commission; and

(4) Square 700, Lot 46, for a period of three (3) years maximum, beginning from the date of issuance of a certificate of occupancy for such use, with the three (3)-year period renewable by the Zoning Commission.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

518 SPECIAL EXCEPTION USES (MU-USE GROUP G)

518.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

(a) Automobile or motorcycle sales or repair subject to the provisions of this section:

(1) The use shall be located so that it is not objectionable to other uses on the same or neighboring property because of noise, fumes, or other conditions;

(2) The use shall not result in dangerous or otherwise objectionable traffic conditions;

(3) The use and all its accessory facilities, including automobile storage, shall be located within a building;

(4) No portion of a building use for vehicle sales or repair shall be used within fifty feet (50 ft.) of a R, RF, RA MU-1, MU-2, MU-15, MU-16, or MU-23 zone; and

(5) The Board of Zoning Adjustment may impose additional requirements pertaining to location of buildings or other structures, entrances, exits, or soundproofing, or other requirements as the Board deems necessary to protect adjacent or nearby property;

(b) An antenna tower or monopole;

(c) Bowling alley, subject to the provisions of this section:

(1) Bowling alley use shall not be within twenty-five feet (25 ft.) of a residential zone unless separated from such district by a street or alley; and

(2) Soundproofing to the extent deemed necessary for the protection of adjoining and nearby property shall be required;

(d) Building service trade, including, but not limited to, plumber, electrician, exterminator, or air conditioning mechanic;

(e) College or university that is an academic institution of higher learning, including a college or university hospital, dormitory, fraternity, or sorority house proposed to be located on the campus of a college or university, subject to the conditions of Subtitle X;

(f) Emergency shelter for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the standards and conditions of Subtitle U § 203.1(h);

(g) Experimental research or testing laboratory;

(h) Health care facility for sixteen (16) to three hundred (300) persons, not including resident supervisors or staff and their families, subject to the standards and conditions of Subtitle U § 203.1(k);

(i) Hospital or clinic use, if the Board of Zoning Adjustment considers that this use is appropriate in furthering the objectives of the zone, subject to the provisions of this section:

(1) The hospital or clinic use shall be located so that it is not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking;

(2) There shall be a demonstrated need for the facility;

(3) The applicant shall submit to the Board of Zoning Adjustment a detailed plan for the hospital or clinic and accessory facilities, showing the following:

(A) Location, height, and bulk of all improvements, including but not limited to buildings, parking and loading facilities, screening, signs, and public utility facilities;

(B) A description of the activities to be carried on at the hospital or clinic, including the capacities of the various facilities within the hospital or clinic; and

(C) Before taking final action on an application for hospital or clinic use, the Board of Zoning Adjustment shall refer the application to the Office of Planning for coordination, review, and report, including review and report by the Department of Human Services on the need for the facility as well as the specific design of the facility and the District Department of Transportation;

(j) Light manufacturing, processing, fabricating, or milling, subject to the provisions of this section:

(1) The use shall comply with the standards of external effects for PDR zones and shall have no adverse effects on other uses on the same or adjoining properties;

(2) The use shall not result in dangerous or otherwise objectionable traffic conditions;

(3) There shall be adequate off-street parking for trucks and other service vehicles;

(4) There shall be no outdoor storage of materials; and

(5) The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, or screening, or any other requirements that it deems necessary for the protection of neighboring or adjacent property;

(k) A Metropolitan Police Department vehicle maintenance facility or equestrian unit, subject to the condition that it be located so that it is not likely to become objectionable to adjoining or nearby property because of noise or fumes;

(l) Retail, large format, subject to the conditions of Subtitle U § 511.1(j);

(m) Utilities, subject to the provisions of this section:

(1) Any new construction of a freestanding structure used primarily for the purpose of housing an optical transmission node shall be subject to the following:

(A) The structure shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping; and

(B) There shall be no advertisement on the structure; and

(2) The Board of Zoning Adjustment may impose any requirements for setbacks, screening, or other safeguards that it deems necessary for protection of the neighborhood;

(n) Warehouse or wholesaler use; and

(o) Other uses neither identified as permitted or not permitted, subject to the provisions of this section:

(1) The use shall not adversely affect the present character and future development of the neighborhood;

(2) No dangerous or otherwise objectionable traffic conditions shall result from the establishment of the use; and

(3) The Board of Zoning Adjustment may impose requirements pertaining to the design, appearance, screening, or any other requirements that it deems necessary for the protection of neighboring or adjacent property.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

519 USES NOT PERMITTED (MU-USE GROUP G)

519.1 The following uses shall be specifically prohibited in MU-Use Group G:

(a) Any establishment that has as a principal use the administration of massages;

(b) Any industrial use prohibited in an PDR zone;

(c) Any use first permitted in the PDR zone;

(d) Car wash, as a principal use;

(e) Carting, express, moving, or hauling terminal or yard, except a cooperative central delivery or pick-up system for goods or merchandise solely to serve businesses in the area;

(f) Chemical manufacturing, storage, or distribution;

(g) Drive-through operation as either a principal or accessory use;

(h) Enameling, plating, or painting (except artist's studio) as a principal use;

(i) Firearms retail sales establishments as a principal or an accessory use;

(j) Gasoline service station;

(k) Material salvage;

(l) Outdoor advertising or billboard as a principal use;

(m) Outdoor material storage;

(n) Packing or crating operations as a principal use;

(o) Parking lot, except a temporary surface parking lot permitted pursuant to Subtitle U § 517.1(c);

(p) Sexually-oriented business establishment;

(q) Smelting or rendering; and

(r) Animal care and boarding except for a veterinary office or hospital.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

CHAPTER 6 USE PERMISSIONS FOR ALLEY LOT

600 MATTER-OF-RIGHT USES ON ALLEY LOTS (R, RF, AND RA)

600.1 The following uses shall be permitted as a matter-of- right on an alley lot in the R, RF, and RA zones subject to any applicable conditions:

(a) Agricultural, both residential and large;

(b) Artist studio subject to the following conditions:

(1) Occupancy of the building shall be limited to one (1) artist and one (1) apprentice for each four hundred and fifty square feet (450 sq. ft.) of gross floor area of a building on an alley lot;

(2) All operations and storage of materials shall occur inside the building;

(3) Incidental sales of art work produced by the occupants of the studio shall be permitted within the studio; and

(4) The artist may teach one (1) or more apprentices;

(c) Camping by the owner of an alley lot on the alley lot in a tent, wagon, van, automobile, truck, or trailer, subject to the following conditions:

(1) The use shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, parking, lighting, sanitation, or otherwise objectionable conditions;

(2) Open fires shall not be permitted; and

(3) The use shall not be for more than two (2) consecutive weeks and no more than one (1) month per calendar year;

(d) Parking subject to the following conditions:

(1) Surface parking spaces for use by residents of the square;

(2) Not more than two (2) car-sharing spaces; and

(3) Parking garage on a lot not containing another use shall meet the following conditions:

(A) No more than two (2) motor vehicles may be housed on the lot;

(B) The building may not exceed four hundred fifty square feet (450 sq. ft.); and

(C) The building shall open directly onto an alley; and

(e) Residential dwelling, provided that the use shall be limited to one (1) dwelling unit on an alley lot, subject to the following limitations:

(1) The alley lot is wholly within an R-3, R-13, or R-17 zone, an RF zone, or an RA zone;

(2) A residential dwelling may not be constructed or other building converted for a dwelling unit unless there is a minimum of four hundred and fifty square feet (450 sq. ft.) of lot area;

(3) The alley lot has access to an improved public street as follows:

(A) Through an improved alley or alleys twenty-four feet (24 ft.) or more in width; or

(B) Through an improved alley no less than fifteen feet (15 ft.) in width and within three hundred (300) linear feet of an improved public street;

(4) The residential dwelling shall meet all building code requirements for a permanent residential structure; and

(5) If the Zoning Administrator or other authorized building official determines that the access from a proposed dwelling on an alley lot is insufficient to provide the intended public safety, hygiene or other building code requirement, the application for the residential dwelling shall be referred to the Board of Zoning Adjustment.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

601 SPECIAL EXCEPTION USES ON ALLEY LOTS (R, RF, AND RA)

601.1 The following uses shall be permitted on an alley lot in the R, RF, and RA zones, as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to any specific provisions of each section:

(a) No camp or any temporary place of abode in any tent, wagon, van, automobile, truck, or trailer of any description shall be permitted on an

alley lot when not accompanied by the property owner, unless approved as a special exception subject to the following conditions:

(1) The use shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, parking, lighting, sanitation, or otherwise objectionable conditions;

(2) Open fires shall not be permitted; and

(3) The use shall not be approved for more than two (2) consecutive weeks and no more than one (1) month per calendar year;

(b) Parking uses not meeting the matter of right standards, provided that a publicly operating parking area use shall be subject to the following conditions:

(1) Any use authorized in this section shall not be likely to become objectionable because of noise, traffic, or number of employees; and

(2) The hours of active operation shall be arranged so as not to prove disturbing or otherwise objectionable to persons residing around the perimeter of the square in which located;

(c) Residential use not meeting the matter-of-right requirements of Subtitle U § 600.1(e), provided that the use shall be limited to one (1) dwelling unit on an alley lot, subject to the following conditions:

(1) The alley lot is not wholly or partially within the R-1-A, R-1-B, or R-2 zones;

(2) A building may not be constructed or converted for a dwelling unit unless there is a minimum of four hundred and fifty (450) square feet square feet of lot area;

(3) The alley lot connects to an improved public street through an improved alley or system of alleys that provides adequate public safety, and infrastructure availability; and

(4) The Board of Zoning Adjustment shall consider relevant agency comments concerning:

(A) Public safety, including any comments from the Fire and Emergency Medical Service Department and the Metropolitan Police Department;

(B) Water and sewer services, including any comments from the Water and Sewer Authority, especially the Department of Permit Operations;

(C) Waste management, including any comments from the Department of Public Works; and

(D) Traffic and parking, including any comments from the District Department of Transportation; and

(5) An applicant shall submit or arrange for the submission of agency comments to the official case record. If no agency submission occurs, an applicant shall instead describe any communications with relevant agencies; and

(d) Storage of wares or goods on an alley lot provided that the use shall be limited to the following:

(1) No storage use authorized in this section shall be located in a building containing more than twenty-five hundred square feet (2,500 sq. ft.) of gross floor area;

(2) Any use authorized in this section shall not be likely to become objectionable because of noise, traffic, or number of employees;

(3) The alley upon which the use is to be located shall be readily negotiable by any truck necessary for the proposed operation; and

(4) The hours of active operation shall be arranged so as not to prove disturbing or otherwise objectionable to persons residing around the perimeter of the square in which the use is located.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

602 USES ON ALLEY LOTS IN THE NONRESIDENTIAL ZONES

602.1 Any matter-of-right use permitted within a zone in which an alley lot is located other than an R, RA, or RF zone shall be permitted as a matter of right use on the alley lot, subject to the same conditions or limitations.

602.2 Any special exception use permitted within the zone in which the alley lot is located shall be permitted as a special exception use on the alley lot, subject to the same conditions or limitations.

602.3 Any use not permitted within the zone in which the alley lot is located shall not be permitted on the alley lot, subject to any conditions or limitations.

602.4 Any use permitted as a matter of right pursuant to Subtitle U § 602.1 that does not comply with the required conditions for the matter-of-right use may apply for permission as a special exception.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

CHAPTER 7 USE PERMISSIONS MIXED-USE UPTOWN ARTS (ARTS) AND DOWNTOWN (D) ZONES

700 MATTER-OF-RIGHT USES (ARTS and D)

700.1 This chapter contains uses permitted as a matter of right in the ARTS and D zones.

700.2 In the ARTS-1 and ARTS-2 zones, arts use of this chapter shall be permitted as a matter of right in addition to the MU-Use Group E standards of Subtitle U, Chapter 5, subject to the limitations and conditions of this chapter.

700.3 In the ARTS-3 zone, the arts uses of this chapter shall be permitted as a matter of right in addition to the MU-Use Group F standards of Subtitle U, Chapter 5, subject to the limitations and conditions of this chapter.

700.4 In the ARTS-4 zone, the arts uses in this chapter shall be permitted as a matter of right in addition to the MU-Use Group G standards of Subtitle U, Chapter 5, subject to the limitations and conditions of this chapter.

700.5 In the D zone, the use permissions are as set forth in Subtitle I, Chapter 3.

700.6 The following uses are permitted as a matter of right in the ARTS and D zones subject to any applicable conditions:

(a) Art exhibition areas, curated by an art gallery, professional curator or other qualified professional, subject to the following provisions:

(1) The area accounts for no more than five percent (5%) of the 0.5 FAR or 0.5 FAR equivalent;

(2) The area is open to the public during normal business hours at least five (5) days per week and fifty (50) weeks per year;

(3) Exhibitions change at least four (4) times per year with the exception that not more than twenty percent (20%) of the art works may be a permanent exhibition; and

(4) There are at least two (2) public sales of the exhibitions or a majority of the total art works displayed on an annual basis;

(b) Artisan production use group:

(1) Architectural production;

(2) Glass working;

(3) Jewelry making;

(4) Metalworking; and

(5) Woodworking, including furniture manufacture;

(c) Arts-retail use group:

(1) Art gallery;

(2) Art services, including but not limited to set design and restoration of artworks;

(3) Art supplies store;

(4) Bookstores;

(5) Musical instruments store;

(6) Recordings store;

(7) Picture framing shop;

(8) Printmaking shop, digital print or scanning lab; and

(9) Traditional darkroom and photographic supply sales;

(d) Artist living and production use group:

(1) Artist live-work space;

(2) Artist studio; and

(3) Multi-artist live-work space;

(e) Design use group:

(1) Architecture;

(2) Computer system and software design;

(3) Fashion design;

(4) Graphic design;

(5) Interior architecture and design;

(6) Landscape design; and

(7) Product and industrial design;

(f) Eating and drinking establishments;

(g) Education and multi-function use group:

(1) Art center;

(2) Art incubator;

(3) Art or performing arts school, including but not limited to schools of dance, photography, filmmaking, music, writing, painting, sculpting, or printmaking; and

(4) Library;

(h) Multi-media media studio;

(i) Museum; and

(j) Performing arts use group:

(1) Administrative offices of arts organizations;

(2) Cabaret;

(3) Movie theater;

(4) Dinner theater;

(5) Legitimate theater;

(6) Performing arts ticket office or booking agency; and

(7) Theater, assembly hall, auditorium, concert hall, public hall, or other performing arts space, including rehearsal and/or pre-production space.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 8 USE PERMISSIONS PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES

800 GENERAL PROVISIONS (PDR)

800.1 This chapter contains use permissions and any applicable conditions in the PDR zones.

800.2 Uses permitted in the PDR zones are either permitted as a matter of right or as a special exception, subject to approval by the Board of Zoning Adjustment.

800.3 Uses are permitted as either principal or accessory uses. Accessory uses customarily incidental to a use permitted as a matter of right shall be permitted, unless otherwise restricted in this chapter, and subject to any conditions associated with the use as a principal use.

800.4 Regardless of the permissions and in addition to any restrictions or conditions of this chapter, the limitations of Subtitle U § 803 shall apply to properties within one hundred feet (100 ft.) of a residential zone.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

801 MATTER-OF-RIGHT USES (PDR)

801.1 The following uses shall be permitted in a PDR zone as a matter of right, subject to any applicable conditions:

(a) Agricultural uses;

(b) Animal Sales, Care, and Boarding uses subject to the following conditions:

(1) Veterinary hospital, which may also include the incidental boarding of animals as necessary for convalescence, pet grooming, and the sale of pet supplies, but not as an independent line of business; or

(2) Animal Shelter subject to the following conditions:

(A) The use shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, concrete and masonry, and acoustical landscaping;

(B) The use shall not be located within twenty-five feet (25 ft.) of a lot within an R, RA, RF, RC-1, CG-1, or D-1 zone. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal shelter use and any portion of a street or alley that

separate the use from a lot within an R, RF, or RA zone. Shared facilities that are not under the sole control of the animal shelter, such as hallways and trash rooms shall not be considered as part of the animal shelter use; and

(C) Outdoor runs and external yards for the exercise of animals shall be permitted, subject to the following requirements:

(i) No animals shall be permitted in outdoor runs or external yards between the hours of 8:00 p.m. and 7:00 a.m.;

(ii) External yards and outdoor runs shall be enclosed with fencing or walls for the safe confinement of animals and the absorption of noise. Fencing and/or walls shall be a minimum of eight feet (8 ft.) in height and constructed of solid or opaque materials with maximal noise-absorbing characteristics;

(iii) No more than three (3) animals shall be permitted within any exterior yard or outdoor run at a time; and

(iv) No part of an outdoor run or exercise yard shall be located within two hundred feet (200 ft.) of an existing residential use or residence zone;

(D) All animal waste shall be kept in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly;

(E) Odors shall be controlled by means of an air filtration system (for example, High Efficiency Particulate Air [HEPA] filtration) or an equivalently effective odor control system; and

(F) The use shall meet the Standards of External Effects in Subtitle U § 804;

(c) Arts, design, and creation uses;

(d) Chancery;

(e) College or university uses;

(f) Community-based institutional facility;

(g) Daytime care;

(h) Eating and drinking establishments are permitted as a matter of right, provided no part of the establishment contains a live performance, night club or dance venue;

(i) Education uses, private and public;

(j) Emergency shelter for not more than four (4) persons, not including resident supervisors or staff and their families;

(k) Firearm sales uses are permitted as a matter of right, provided no part of the establishment shall be located within three hundred feet (300 ft.) of the following:

(1) An R, RF, or RA zone;

(2) Parks and recreation use;

(3) Places of worship;

(4) Public or private schools; or

(5) Public libraries;

(l) Government uses, local and large scale;

(m) Health care;

(n) Institutional uses, general and religious;

(o) Lodging;

(p) Marine;

(q) Motor vehicle-related sales and repair, provided the use is not within two hundred feet (200 ft.) of any R, RA, or RF zone or residential development;

(r) Office;

(s) Parking;

(t) Parks and recreation;

(u) Production, distribution, and repair uses are permitted as a matter of right, subject to compliance with the Standards of External Effects in Subtitle U § 804, except for the following prohibited uses or activities:

(1) Acetylene gas manufacture;

(2) Bone products manufacture;

(3) Calcium carbide manufacture;

(4) Curing, tanning, or storage of hides;

(5) Excavation or quarrying of rock for commercial purpose;

(6) Fertilizer manufacture;

(7) Manufacture or storage of ammunition, explosives, firearms, or military equipment (this condition does not apply to the storage of ammunition or firearms incidental to a use in the firearm sales category);

(8) Manufacturing, processing, mixing, storing, or distributing concrete or asphalt, or the materials that are used to make concrete or asphalt;

(9) Refining or manufacture of bituminous products other than asphalt;

(10) Rubber products manufacture or treatment;

(11) Slaughter or rendering of animals; or

(12) Steel furnace, blast furnace, bloom furnace, coke oven, or rolling mill;

(v) Residential uses are limited to the following list of conditions:

(1) An apartment unit for the use of a caretaker, watchman, or janitor employed on the premises;

(2) An apartment unit that is integrated with and accessory to an artist studio, provided that occupancy of the apartment shall be limited to the artist using the studio portion of the premises and the household of the artist; and

(3) A residential dwelling existing on May 12, 1958, provided, any addition to or enlargement of the dwelling shall not result in a lot occupancy of greater than sixty percent (60%);

(w) Retail uses, except large format retail;

(x) Service uses are permitted as a matter of right, provided that if the use offers massage services, the use shall either:

(1) Be a licensed massage establishment under the provisions of D.C. Official Code § 47-2811; or

(2) Only offer massage services provided by massage therapists with a professional license issued pursuant to Title 17 DCMR;

(y) Transportation infrastructure;

(z) Utilities (basic) uses are permitted as a matter-of–right; however, if the use is an electronic equipment facility that exceeds twenty-five percent (25%) of the gross floor area of a building located on site:

(1) The building shall not be located within eight hundred feet (800 ft.) of an established or planned Metrorail station; and

(2) The building shall not be located within one thousand two hundred fifty feet (1,250 ft.) of the edge of a river as measured at mean high tide;

(aa) Waste incineration, including for conversion to energy subject to the Standards of External Effects in Subtitle U § 804, and the use shall not be permitted on any lot located in whole or in part within one hundred feet (100 ft.) of a residential zone;

(bb) Wholesale or storage establishment, including open storage, except a junk yard.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

802 SPECIAL EXCEPTION USES (PDR)

802.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

(a) Animal sales, care, and boarding uses not meeting the conditions of matter-of-right of Subtitle U § 801.1(b), subject to the following conditions:

(1) Animal uses, including animal boarding, pet grooming establishments, pet shops, veterinary boarding hospitals, and animal shelters shall be subject to the following:

(A) The use shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor or waste;

(B) All animal waste shall be placed in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system;

(C) The property shall not abut a residential use or residential zone;

(D) External yards or other exterior facilities for the keeping of animals shall not be permitted; and

(E) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby properties;

(2) Any use that trims or cleans domestic pets for a fee shall also be permitted to engage in the sale of pet supplies as an accessory use; and

(3) Any use that boards animals as an independent line of business in association with a veterinary hospital for reasons other than convalescence shall be subject to the following additional criteria:

(A) The use may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808(h)(1), except domesticated dogs;

(B) No more than fifty percent (50%) of the gross floor area of the use may be devoted to the boarding of animals; and

(C) Pet grooming, the sale of pet supplies, and incidental boarding as necessary for convalescence, are permitted as accessory uses. Any business engaged in the sale of dogs, cats, birds, tropical fish and/or other domesticated pets, as permitted by the D.C. Official Code § 8-1808(h)(1), including related supplied and equipment;

(b) Eating and drinking establishments with a live performance, night club or dance venue, subject to the following conditions:

(1) The use shall be located and designed so that it is not likely to become objectionable to neighboring property because of noise, traffic, parking, loading, number of attendees, waste collection, or other objectionable conditions;

(2) The property shall not abut a residential use or residential zone;

(3) There is no property containing a live performance, night club or dance venue either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the subject property;

(4) External performances or external amplification shall not be permitted; and

(5) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby residential properties, including but not limited to:

(A) Soundproofing;

(B) Limitations on the hours of operation; and

(C) Expiration on the duration of the special exception approval;

(c) Emergency shelter not meeting the conditions of Subtitle U § 801.1(j), subject to the following conditions:

(1) There shall be a maximum limit of three hundred (300) persons, not including resident supervisors or staff and their families, provided that for facilities over one hundred and fifty (150) persons the Board of Zoning Adjustment finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and there is no other reasonable alternative to meet the program needs of that area of the District;

(2) There shall be no other property containing an emergency shelter use for five (5) or more persons in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the property;

(3) The use shall not be located within one thousand feet (1,000 ft.) of a waste-related services use; and

(4) The use shall not be permitted in the PDR-3, PDR-4, or PDR-7 zones;

(d) Entertainment, assembly, and performing arts uses, subject to the following conditions:

(1) The use shall be located and designed so that it is not likely to become objectionable to neighboring property because of noise, traffic, parking, loading, number of attendees, waste collection, or other objectionable conditions;

(2) The property shall not abut a residential use or residential zone;

(3) There is no property containing a live performance, night club or dance venue either in the same square or within a radius of one thousand (1,000 ft.) from any portion of the subject property;

(4) External performances or external amplification shall not be permitted; and

(5) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby residential properties, including but not limited to:

(A) Soundproofing;

(B) Limitations on the hours of operation; and

(C) Expiration on the duration of the special exception approval;

(e) Production, distribution, and repair uses that involve the excavation of clay, sand, or gravel for commercial purposes, or the manufacturing, processing, mixing, storing, or distributing of concrete or asphalt, or the materials that are used to make concrete or asphalt, subject to the following conditions:

(1) The use shall meet the Standards of External Effects in Subtitle U § 804;

(2) No portion of the facility, including the land used by such facility, shall be located within two hundred feet (200 ft.) of a residential, parks and recreation, retail, office, institutional, or local government use, or a R, RF, or RA zone;

(3) There shall be no truck access, parking, standing, or queuing to the facility from any street or block-long portion of a street for which fifty percent (50%) or more of the abutting properties on either side are a Residential use;

(4) No truck dumping or picking up excavation, concrete or asphalt, or related materials, shall park, stand, or queue for the facility along any public right-of-way, and the location of the facility shall provide access from a paved street with a road base capable of withstanding anticipated load limits;

(5) Any facility located within five hundred feet (500 ft.) of a residential zone shall not be in operation between 7:00 p.m. and

7:00 a.m. Hours of operation shall include the arrival and departure of trucks;

(6) The facility shall be enclosed on all sides by an opaque screen, fence, or wall at least ten feet (10 ft.) in height. The use of barbed wire or razor wire that is visible from residential zones or public space is prohibited;

(7) The side of the facility facing public space, residential, parks and recreation, retail, office, institutional, or local government uses shall contain a landscaped area of evergreen trees measuring a minimum of eight feet (8 ft.) in height, which shall be maintained in a healthy growing condition;

(8) The application shall contain:

(A) A site plan showing the layout of the proposed facility, including fences and screens, street access, parking, and queuing areas;

(B) A landscape plan showing the planting locations and soil preparation techniques;

(C) A lighting plan showing the proposed lighting locations and illumination spread, and noting the proposed height and wattage of the lighting fixtures;

(D) A traffic study which indicates truck routes to and from the facility on streets abutting residential neighborhoods, with the objective of minimizing potential adverse impacts on adjacent neighborhoods; and

(E) A description of the facility's methods and specifications for the control of odor, dust, smoke and other air pollutants, and noise; and

(9) The Office of Zoning shall submit the application to the Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District departments and agencies, including, but not limited to, the Departments of Public Works, Transportation, Health, and Energy and Environment, and if a historic district or historic landmark is involved, the Historic Preservation Office;

(f) Repair of automobiles (any devoted use), including body work, in a PDR-1, PDR-2, PDR-5, or PDR-6 zone within two hundred feet (200 ft.) of a residential zone or residential development, subject to the following conditions:

(1) The use shall meet the Standards of External Effect in Subtitle U § 804;

(2) All vehicles shall be parked or stored completely on the site but shall not be located within any required buffer area or yard adjacent to a residential zone;

(3) No vehicles shall be parked in such a manner as to block or impede the flow of vehicular, pedestrian or bicycle traffic along public rights-of-way around, adjacent or neighboring the site; and

(4) All lighting of the site shall be arranged and shielded to reduce glare and avoid light spill onto any adjacent residential property;

(g) Service uses not meeting the conditions of Subtitle U § 801.1(x) or whose principal use is the administration of massages, subject to the following conditions:

(1) The use shall not be objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions; and

(2) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby residential properties, including but not limited to:

(A) Limitations on the hours of operation; and

(B) Expiration on the duration of the special exception approval;

(h) Utilities (basic) uses not meeting the conditions of Subtitle U § 801.1(z); however, if the use is an electronic equipment facility (EEF), the Board of Zoning Adjustment shall consider:

(1) How the facility, as a consequence of its design, operation, low employee presence, or proximity to other EEFs, will not inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian movement;

(2) The impact of the facility on other relevant factors, including the following:

(A) Absence of retail uses or of a design capable of accommodating retail uses in the future;

(B) Presence of security or other elements in the design that could impair street life and pedestrian flow;

(C) Disruption of or elimination of existing officially proposed pedestrian or vehicular routes; and

(D) Inability of the EEF to be adapted in the future for permitted uses;

(3) The economic development potential of the area in which the facility is proposed to be established, giving greater weight to these factors if the facility is to be located in proximity to an existing or proposed Metrorail station or along a pedestrian corridor;

(4) The economic benefits the proposed facility will have on adjacent properties, including the potential for increased business activity within the neighborhood, if that activity will foster economic development; and

(5) The design appearance, landscaping, parking and other such requirements it deems necessary to protect adjacent property and to achieve an active, safe, and vibrant street life; and

(i) Waste-related service uses not permitted under Subtitle U § 801.1(aa), but not including hazardous waste, subject to the following conditions:

(1) Regardless of use, the facility shall comply with the following:

(2) The use shall meet the Standards of External Effects in Subtitle U § 804.

(3) Vehicular access shall be provided from a paved street with a road base capable of withstanding anticipated load limits;

(4) Truck access or queuing to the site shall not be provided adjacent to any residential zone;

(5) Truck access, parking, standing or queuing to the facility shall not be provided from any street or block-long portion of a street for which fifty percent (50%) or more of the abutting properties on either side are residential uses;

(6) Parking space shall be provided on-site for each commercial vehicle operated by the facility;

(7) The facility shall be configured in such a manner that trucks entering or leaving the facility shall not back in from or back out onto any public right-of- way;

(8) If the facility serves the public, all parking and queuing space shall be provided on-site to accommodate projected peak demand;

(9) All uses other than a solid waste handling facility:

(A) No portion of the facility, including any structure, loading docks and truck bays, storage, transfer equipment, truck parking, or other similar processing equipment and operations, shall be located within two hundred feet (200 ft.) of an existing residential use or residential zone;

(B) The facility shall be enclosed on all sides by an opaque fence or wall at least ten feet (10 ft.) high;

(C) Any side of the facility facing a public right-of-way or residential zone shall be landscaped;

(D) The site shall be maintained free of litter, trash, debris, and any other non-recyclable materials;

(E) All storage of waste or recycled materials shall be contained in sturdy containers or enclosures that are fully covered, secured, and maintained in good condition and approved by the Fire and Emergency Medical Services Department;

(F) All storage of waste or recycled materials shall not be located outside the facility structures so that it is visible above the height of a required fence or wall;

(G) If the facility is located within five hundred feet (500 ft.) of a residential zone, it shall not be in operation between 7:00 p.m. and 7:00 a.m. or any time on Sunday. Hours of operation shall include the arrival and departure of trucks and delivery and removal of materials and equipment; and

(H) The facility shall be administered by on-site personnel during the hours the facility is open;

(10) A solid waste handling facility:

(A) All solid waste handling activities, including depositing, processing, separation, and loading, shall be within a fully enclosed building to minimize the adverse impacts due to noise, traffic, parking, odors, rodents and other disease vectors, dust, litter, fire hazards, decomposition gases, wastewater, vehicle and other pollution, and other hazards or objectionable conditions;

(B) The facility shall be enclosed on all sides by an opaque fence or wall at least ten feet (10 ft.) high. The facility shall be secured from unauthorized deposit and removal of solid waste or other materials when attendants are not present;

(C) No portion of the facility, including any structure, loading dock, truck bay, storage container, transfer equipment, or any other processing equipment or operation, shall be located within three hundred feet (300 ft.) of a property in a residential zone or located within fifty feet (50 ft.) of any adjacent property used as a parks and recreation use, retail, office, institutional, or local government use;

(D) The facility shall be designed to have access to a railway siding or spur to enable the transportation by rail of solid waste out of the District of Columbia unless the Board of Zoning Adjustment finds that the applicant has demonstrated by substantial evidence that the use of rail is not practically, economically, or physically feasible;

(E) In determining whether to grant a special exception, the Board of Zoning Adjustment shall not take into consideration whether the District of Columbia government issued the applicant an interim operating permit for the facility. The granting of a special exception to a facility does not authorize that facility to operate, unless the facility has been granted all other forms of permission required for solid waste handling facilities, including, but not limited to, a valid interim operating permit or solid waste facility permit. A solid waste handling facility that has been granted a special exception remains obligated to abide by all laws applicable to solid waste handling facilities and is subject to all claims or enforcement actions that may arise from violations of the laws; and

(F) Any otherwise valid interim permit issued by the District government to the operator of a solid waste handling facility shall be given effect by the Board of Zoning Adjustment only during the pendency of the Board of Zoning Adjustment's consideration of an application. In the event the Board of Zoning Adjustment denies the application, the continued operation of the facility shall be unlawful. In the event the Board of Zoning Adjustment grants an application, it may provide the applicant a reasonable time in which to construct the facility as approved by the Board of Zoning Adjustment; and

(11) The applicant shall provide credible evidence to the Board of Zoning Adjustment to demonstrate the ability of the facility and its ancillary elements to comply with all applicable regulations. The evidence shall include, but not be limited to, the following:

(A) An indication of the site and description of land uses within one-quarter (1/4) of a mile of the site;

(B) A site plan showing the layout of the proposed facility, including main buildings, fences and screens, access to rail if available, street access, parking and queuing areas, and a functional diagram indicating the proposed use of the site;

(C) An operating plan indicating types of waste to be accepted at the facility and estimates of the volume and number of trips of incoming and outgoing materials daily and during peak periods;

(D) A plan for preventing and controlling offensive noises, odors, and rodents and other disease vectors;

(E) A traffic study that indicates truck routes to and from the facility on streets, to the extent possible, that are major arterials and highways that do not abut residential neighborhoods along the way; and

(F) A certified statement by an architect or engineer licensed in the District of Columbia that the facility as sited and designed to the best of his or her professional knowledge and belief is capable of complying with this subsection and all other applicable regulations of the District of Columbia government, including, without limitation, regulations adopted pursuant to the Solid Waste Facility Permit Act of 1995, effective February 27, 1996 (D.C. Law 11-94, as amended; D.C. Official Code §§ 8-1051 to 8-1063 (2012 Repl.)).

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

803 ADDITIONAL USE RESTRICTIONS AND CONDITIONS (PDR)

803.1 Any use not permitted by conditions, special exception, or as an accessory use in this subtitle shall be deemed to be not permitted.

803.2 Regardless of the permissions, and in addition to any restrictions or conditions of this chapter, the following uses shall not be permitted on any lot located in whole or in part within one hundred feet (100 ft.) of a residential zone:

(a) Any establishment that has as a principal use the administration of massages;

(b) Car wash as a principal use;

(c) Carting, express, moving, or hauling terminal or yard, except a cooperative central delivery or pick-up system for goods or merchandise solely to serve businesses in the area;

(d) Chemical manufacturing, storage, or distribution;

(e) Drive-through operation as either a principal or accessory use;

(f) Enameling, plating, or painting (except an artist's studio), as a principal use;

(g) Firearms retail sales establishments as a principal or an accessory use;

(h) Gasoline service station;

(i) Material salvage;

(j) Outdoor advertising or billboard as a principal use;

(k) Outdoor material storage processing, fabricating, or repair, whether a principal or accessory use;

(l) Packing or crating operations as a principal use;

(m) Parking lot;

(n) Sexually-oriented business establishment;

(o) Smelting or rendering; and

(p) Incinerator.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

804 STANDARDS OF EXTERNAL EFFECTS (PDR)

804.1 Any use established in a PDR zone that is not permitted in any non-PDR zone and any uses accessory to those uses shall be operated so as to fully comply with the applicable environmental standards and requirements of Title 20 DCMR, Environment.

804.2 The volume of sound inherently and recurrently generated shall not exceed the maximum permissible sound levels established in Title 20 DCMR, Chapter 27,

Noise Control, and Chapter 28, Maximum Noise Levels, at any point along the boundaries of the zone district in which the use is located.

804.3 The emission of any odorous gases or other odorous matter or steam in quantities that are offensive or noisome at any point along the boundaries of the zone district in which the use is located shall be prohibited.

804.4 No noxious, toxic, or corrosive fumes or gases shall be permitted to escape or to be discharged from any use permitted in a PDR zone.

804.5 No objectionable amounts of cinders, dust, or fly-ash shall be permitted to escape or to be discharged from any use permitted in a PDR zone.

804.6 No direct or reflected glare or heat from any source shall be detectable in objectionable amounts beyond the boundaries of the zone district in which the use is located.

804.7 Every use shall be operated so that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point along any boundary of the zone district in which the use is located.

804.8 The use of barbed or razor wire adjacent to any residentially zoned land shall be prohibited.

804.9 Any back-up generators or power systems shall be either:

(a) Fully enclosed within the principal structure; or

(b) Located no closer than two hundred feet (200 ft.) from the nearest residentially zoned land or residential development.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

805 EXTERNAL EFFECTS PERMIT APPLICATIONS (PDR)

805.1 When filing an application for a building permit or certificate of occupancy with the Department of Consumer and Regulatory Affairs for a use permitted subject to Subtitle U § 804, the applicant shall submit with the application three (3) copies of:

(a) A site plan showing buildings and other structures, roadways, drainage and sanitary facilities, parking spaces, loading berths, landscaping, and exterior lighting, and back-up generators or power supplies (if any); and

(b) A description of any operations that would be subject to the standards of external effects in Subtitle U § 804 and any information necessary to evidence compliance with Subtitle U § 804.

805.2 A site plan approved under this section shall become a part of the building permit or certificate of occupancy.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

806 ALLEY LOT USES (PDR)

806.1 Uses that are permitted in the PDR zones are allowed on alley lots, subject to the satisfaction of all related conditions, and as further limited in Subtitle U § 806.2.

806.2 Residential uses shall not be permitted.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

TITLE 11 – ZONING

SUBTITLE W SPECIFIC ZONE BOUNDARIES

TITLE 11 – ZONING W-1

SUBTITLE W SPECIFIC ZONE BOUNDARIES W-1

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CHAPTER 1 BOUNDARIES

100 INTRODUCTION

100.1 This subtitle contains boundaries established for specific zone with geographic identification through specific Zoning Commission action.

100.2 When there is a conflict between the official Zoning Map and the boundaries described in Subtitle W, the Office of Zoning shall determine the correct boundaries through a zoning certification.

101 CAPITOL GATEWAY ZONES

101.1 The Capitol Gateway zones (CG-1 through CG-7 and D-5) are applied to the Buzzard Point and Capitol Gateway areas, which are designated for mixed-use development in the Comprehensive Plan for the National Capital. The following Squares and portions of Squares in the southwest and southeast quadrants of the District of Columbia are included in the CG zones: 601, 602, 603, 605, 607, 609, 611, 612, 613, 656, 657, 658, 660, 661, 662, E662, 664, E664, 665, 666, E667, S667, ES667, 700, 701, 702, 703, 704, 705, 706, 707, 708, E708, S708, S744, 769, 771, and 800, as well as Square 651, Lots 147 and 148; Square 653, Lots 14, 15, 52-54, 60-66, 68-70, 75, 111, 810, 811, 827, and 828; and Square 655, Lots 124-140.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

102 CAPITOL INTEREST ZONES

102.1 The Capitol Interest zones (RA-7, RF-3, MU-23, MU-24, MU-26, and the PDR-5) are applied to the U.S. Capitol precinct and the area adjacent to this jurisdiction, in a manner consistent with the goals and mandates of the United States Congress in Title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288), and in accordance with the plan submitted to the Congress pursuant to the Act.

103 CHAIN BRIDGE/UNIVERSITY TERRACE ZONE

103.1 The Chain Bridge/University Terrace zone (R-21) is applied to properties contained within the boundaries of the R-21 zone that includes Lots 826, 829, 839-843, 845-847, 849-851, and 853-857 in Square 1409; Lots 829 and 830 in Square 1410; Lots 803, 806, 807, 829, 830, 832, 840, and 841 in Square 1411; all of Square 1425; Lots 11, 15-18, 20, 22, 831, 835, 851, 855, 859, 861, 863, 864, 898, 899, 902-905, 912, 914, 931, 937, 938, 940, and 948-958 in Square 1426; and all of Square 1427.

104 CLEVELAND PARK NEIGHBORHOOD MIXED-USE ZONE

104.1 The Cleveland Park Neighborhood Mixed-Use zone (NC-3) is applied to a compact geographic area surrounding the Cleveland Park Metrorail Station and within the Cleveland Park Historic District, comprising those lots zoned NC-3 in Squares 2218, 2219, 2222, 2068, 2069, and 2082.

105 DUPONT CIRCLE ZONES

105.1 The Dupont Circle zones (RF-2, RA-8, RA-9, RA-10, and MU-15 through MU-22) include the following Squares: 23, 35, 48, 49, 65, 66, 67, 68, 69, 70, 90, 91, 92, 93, 94, 95, 96, 97, 98, N99, 109, 110, 111, 112, 113, 114, 115, 131, 132, 133, 134, 135, 136, 137, N137, 138, 139, 153, S153, 154, 155, 156, 157, 158, 159, 160, 178, 179, 180, 181, S181, 182, N182, 192, 193, 194, 195, S195, 196, and N196. The Dupont Circle zones also include the following lots: Square 176, Lots 43-45, 64-73, 2076-2128; Square 177, Lots 2, 36-40, 87-92, 104, 108, 118-123, 126, 127, 801, 802, 2009-2019, 2020-2025; Square N177, Lots 4-9, 17, 23-25, 26, 27, 87-92, 801-804, 807, 810-811, 2001-2009, 2010-2012, 2013, 2022; Square 190, Lots 22-42, 51-62, 88-99, 101-116, 119-120, 123, 129, 809, 2001-2018, 2019-2028, 2029-2049, 2050-2056; Square 191, Lots 3-6, 8-16, 40-49, 51-59, 63-65, 66-69, 71-76, 79-87, 90-92, 93-95, 96-98, 99, 100, 104, 107-108, 800, 801, 803-804, 812, 814, 816, 817, 2001-2012, 2014-2027, 2028-2031, 2032, 2034-2058, 2059-2067, 2068-2077, Square 206, Lots 17-25, 62-65, 113-122, 128-133, 138-162, 166-176, 177-198, 219, 220, 800-805, 807, 809, 811, 812, 813, 814, 2001-2013; and Square 207, Lots 48-65, 94-95, 810.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

106 EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE

106.1 The Eighth Street Southeast Neighborhood Mixed-Use zone (NC-6) is applied to a compact geographic area along Eighth Street, S.E., near the entrance to the Navy Yard, comprising those properties zoned NC-6 in Squares 906, 907, 929, and 930.

107 FOREST HILLS TREE AND SLOPE PROTECTION ZONES

107.1 The Forest Hills Tree and Slope Protection zones (R-8, R-9, and R-10) are established to preserve and enhance the park-like setting of the designated neighborhoods bounded by Connecticut Avenue and 32nd Street on the west, Rock Creek Park on the east, Fort Circle National Park and Nevada Avenue, N.W. on the north, and Melvin C. Hazen Park and adjacent to streams and parks on the south, by regulating alteration or disturbance of terrain, destruction of trees, and the ground coverage of permitted buildings and other impervious surfaces. It includes Soapstone Valley Park as well as Melvin C. Hazen Park.

107.2 The Forest Hills Tree and Slope Protection zones includes all lots zoned R-8, R-9, or R-10 in Squares 2030 through 2033, 2040 through 2043, 2046, 2049 (except for Lots 804, 805, and 806), 2231, 2232, 2238, 2239, 2241 through 2251, 2254 through 2256, 2258, 2262 through 2270, 2272, 2274 through 2277, and 2282.

108 FOGGY BOTTOM ZONE

108.1 The Foggy Bottom zone (R-17) has the identical boundaries of the Foggy Bottom Historic District and is applied to the area, the boundaries of which begin at the intersection of K and 25th Streets, N.W., and proceed as follows: east along the center line of K Street, turning south along the eastern edge of Lot 19 in Square 28 to the northern edge of the alley; then eastward and southward along the alley to the northern boundary of Lot 92 in Square 28; then eastward to the center line of 24th Street; then south along the center line of 24th Street to New Hampshire Avenue; then southwest along the center line of New Hampshire to H Street; west along the center line of H Street to 25th Street; north along the center line of 25th Street to the southern edge of Lot 42 in Square 17; then west along the lot line to the alley in Square 17; then through the alley and then north along the western line of Lot 848 (encompassing Lots 812 through 820, 28 through 35, 834, 848, and 849) in Square 17 to the center line of I Street; then west along the center line of I Street to the center line of 26th Street; then north on 26th Street to the northern edge of Lot 73 in Square 16; then east along the northern edge of Lot 73 to the easternmost corner of Hughes Mews and then south along the eastern edge of Hughes Mews to the northern edge of Lots 883, 858, and 856; then east along the lots to the center line of 25th Street; then north along the center line of 25th Street to the origination point at the center line of K Street. The R-17 zone also includes the following: Square 16, excluding Lots 884, 863, 93, 17, 71, and 2009 through 2161 (The Griffin Condominium Apartment Building); Square 17, excluding Lots 2001 through 2051 (The Plaza Condominium Apartment Building); Square 28, excluding Lots 884 and 168; and Square 29 in its entirety.

109 FORT TOTTEN ZONES

109.1 The Fort Totten zones (MU-28, MU-29, PDR-6, and PDR-7) are applied to the area that is immediately north and south of Fort Circle Park (also known as Fort Drive Park) as follows:

(a) North of Fort Circle Park:

(1) The zone boundaries of the MU-28 zone shall begin at the intersection of First Place and Riggs Road, N.E., and proceed as follows:

(A) West along the center line of Riggs Road to the north/south alley that is immediately west of and parallel to First Place; south along the center line of that alley to Ingraham Street; east along the center line of Ingraham Street to First Place;

south along the center line of First Place to the north property line of Parcel 124/141; east along the north property line of Parcel 124/141 and then continue east along the north property line of Parcel 124/140 (also known as Lot 804 in Square 3700); east along an imaginary line that represents the easterly extension of the north property line of Parcel 124/140; continue east along that imaginary line until it intersects a second imaginary line that represents the westerly extension of the property line between Lots 5 and 808 of Square 3767; continue east along the second imaginary line and the property line between Lots 5 and 808 to the alley in Square 3767; north along the center line of that alley to Kennedy Street; west, north, and then east along the perimeter of an existing RA-1 zone boundary line that encompasses Parcel 137/78 (also known as Lots 3, 4, and 800 in Square 3766) to South Dakota Avenue; north along the center line of South Dakota Avenue and then northwesterly along the center line of the vehicular ramp (which connects Riggs Road and South Dakota Avenue) to Riggs Road; west along the center line of Riggs Road to the point of origin; and

(2) The zone boundaries of the MU-29 zone shall be the boundaries of the existing PDR zone that is immediately north of Fort Circle Park and south of the MU-28 zone; and

(b) South of Fort Circle Park:

(1) The zone boundaries of the PDR-7 zone shall be the identical boundaries of the existing PDR zone that is immediately south of and contiguous to Fort Circle Park; and

(2) The zone boundaries of the PDR-6 zone shall be the identical boundaries of the existing PDR zone that is immediately south of and contiguous to Fort Circle Park.

110 GEORGIA AVENUE NEIGHBORHOOD MIXED-USE ZONES

110.1 The Georgia Avenue Neighborhood Mixed-Use zones (NC-7 and NC-8) area applies to all properties zoned NC-7 and NC-8 along both sides of Georgia Avenue, N.W., from the north side of the intersection of Georgia Avenue and Kenyon Street to the south side of the intersection of Georgia Avenue and Varnum Street.

111 HILL EAST ZONES

111.1 The Hill East zone (HE-1 through HE-4) is applied to Federal Reservation 13, which is designated for mixed-use development on the Future Land Use Map of the Comprehensive Plan and the Reservation 13 Hill East Waterfront Master Plan, as approved by the Council of the District of Columbia on October 15, 2002, and is the subject of the Hill East Waterfront Design Guidelines, June 2008.

112 H STREET NORTHEAST NEIGHBORHOOD MIXED-USE ZONES

112.1 The H Street Northeast Neighborhood Mixed-Use zones (N-9 through NC-17) area applies to all lots fronting onto H Street, N.E. from 2nd Street to 15th Street, N.E. and zoned MU-4, MU-5, MU-6, MU-7, or MU-8, as well as: Square 1026, Lots 65, 66, 100, 101, 102, 103, 173, 177, 835, and 836; lots within Squares 1027 and 1049 fronting onto Maryland Avenue, N.E. or 14th Street, N.E.; Reservations 15P, 15Q, 15R, and 213; and all of Square 1050. The area is divided into three (3) sub-districts affecting the following squares:

(a) H Street Northeast Housing Sub-district (NC-9, NC-10, NC-11, NC-12, and NC-13) encompasses properties fronting on H Street, N.E. in Squares 751, 752, 776, 777, 808, 809, 832, 833, 858, and 859 from 2nd to 7th Streets, N.E.;

(b) H Street Northeast Retail Sub-district (NC-16 and NC-17) encompasses properties fronting on H Street, N.E. in Squares 889, 890, 911, 912, 933, 958, 959, 981, and 982 from 7th to 12th Streets, N.E.; and

(c) H Street Northeast Arts Sub-district (NC-14 and NC-15) encompasses properties fronting on H Street, N.E. in Squares 1003, 1004, 1026, 1027, 1049N, and 1049 from 12th to 15th Streets, N.E., as well as: Square 1026 lots 65, 66, 100, 101, 102, 103, 173, 177, 835, and 836; lots within Squares 1027 and 1049 fronting onto Maryland Avenue, N.E. or 14th Street, N.E.; Reservations 15P, 15Q, 15R, and 213; and all of Square 1050.

113 MACOMB-WISCONSIN NEIGHBORHOOD MIXED-USE ZONE

113.1 The Macomb-Wisconsin Neighborhood Mixed-Use zones (NC-1) area applies to the neighborhood commercial area near and extending from the intersection of Macomb Street and Wisconsin Avenue, N.W., comprising those lots zoned NC-1 in Squares 1920 and 1920N.

114 REED-COOKE ZONES

114.1 The Reed-Cooke zones (RC-1, RC-2, and RC-3) shall be applied to the portions of Squares 150, 2557, 2558, 2560, 2562, 2563, 2566, 2567, and 2572 in the Reed-Cooke Special Treatment Area, as defined in the Comprehensive Plan, 10 DCMR § 1127, that are zoned non-residentially as of January 1, 1989.

115 SAINT ELIZABETHS EAST CAMPUS ZONES

115.1 The Saint Elizabeths East Campus zones (StE-1 through StE-19) shall apply to Lot 2 in Square S-5868, which comprises the area historically referred to as the St. Elizabeths East Campus, and generally bounded by the Unified Communications Center to the north; open space and the St. Elizabeths Psychiatric Hospital to the east; Alabama Avenue and the residential community to the south; and Martin Luther King, Jr., Avenue to the west.

116 SIXTEENTH STREET HEIGHTS ZONES

116.1 The Sixteenth Street Heights zone apply to all properties zoned R-16.

116.2 The R-16 zone encompasses the geographic area in northwest Washington generally bounded by 16th Street and Rock Creek Park on the west, Military Road and Missouri Avenue on the north, and 14th Street on the east, and Colorado Avenue on the southeast and the geographic area generally bounded by 16th Street on the west, Colorado Avenue on the north, 14th Street on the east, and Decatur Street to the south. This zone is applied to properties zoned R-16 in the following Squares and portions of squares: 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2715, 2716, 2718, 2719, 2720, 2720W, 2721, 2721W, 2722, 2722W, 2723, 2723W, 2724, 2724W, 2725, 2741, 2742, 2796, and 2799.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016).

117 SOUTHEAST FEDERAL CENTER ZONES

117.1 The Southeast Federal Center zones (SEFC-1 though SEFC-4) are applied to an approximately forty-two acre (42 ac.) portion of the Southeast Federal Center site that is designated for "federal use" and "parks, recreation, and open space" in the Comprehensive Plan for the National Capital. The following squares and portions of squares in the southeast quadrant of the District of Columbia are included in the SEFC area: Squares 743, 744, 771, 802, 826, 853, portions of Squares 770 and 801, and a portion of land south of 771 and 802 bounded by the District of Columbia Water and Sewer Authority ("DC Water") facility to the west, the Washington Navy Yard to the east, and the Anacostia River to the south. The site is bounded generally by M Street, S.E. to the north; the Anacostia River to the south; 1st Street, S.E. and DC Water to the west; and the Washington Navy Yard to the east.

118 TAKOMA NEIGHBORHOOD MIXED-USE ZONE

118.1 The Takoma Neighborhood Mixed-Use zone (NC-2) area applies to Squares 3188 and 3278 in their entirety, and certain lots and portions of lots zoned NC-2 on:

(a) Square 3187 along the frontages of Blair Road and Cedar Street, N.W.;

(b) Squares 3275 and 3276 along the frontage of 4th Street, N.W.;

(c) Squares 3352, 3353, 3354, 3356, and 3357 along the frontages of Cedar Street and Carroll Street, N.W.; and

(d) Square 3280 along the frontages of Blair Road, Butternut Street, and 4th Street, N.W.

118.2 The NC-2 zone begins at the street right-of-way lines abutting the Squares named in Subtitle W § 118.1, and extends to a depth of one hundred feet (100 ft.).

119 UNION STATION NORTH ZONE

119.1 The Union Station North zone (USN) is mapped on the following squares and air space development lots, as more specifically described in the plat attached to Zoning Commission Order No. 09-21:

(a) Square 717, Lots 7001 and 7002 (between H and K Streets, N.E.); and

(b) Square 720, Lots 7000 and 7001 (between Union Station and H Street, N.E.).

120 UPTOWN ARTS MIXED-USE ZONES

120.1 The Uptown Arts Mixed-Use zones (ARTS-1 through ARTS-4) are applied to the commercial and mixed-use zones in the following squares and portions of Squares in the 14th and U Streets, N.W., area: Squares 202 through 211, 234 through 242, N242, 272, 273, 274, 303, 304, 305, 331, 332, 333, 358 through 361, 393, 416, 440, 441, and the portions of Squares 2875 and 2877 that are south of V Street.

121 WESLEY HEIGHTS RESIDENTIAL HOUSE ZONES

121.1 The Wesley Heights Residential House zones (R-14 and R-15) shall apply to the area and properties contained in this subsection:

(a) The area is generally bounded by a line which begins at the intersection of Nebraska and New Mexico Avenues and runs southeast along the center line of New Mexico Avenue, N.W., to the western boundary of Glover Archbold Park. The line then runs south and west along the west boundary of Glover Archbold Park to a point east of the southernmost point of Lot 33 of Square 1341. The line then runs west across 44th Street to the

southwest boundary of Lot 33. The line then runs in a northerly direction along the rear lot lines of the properties on the west side of 44th Street, to the southern boundary of Lot 15 of Square 1341, inclusive of Lot 33. (For those lots with narrow frontages on the west side of 44th Street, the R-14 and/or R-15) zone boundary line shall cross those narrow lot frontages by connecting the rear lot lines of the adjacent lots across the narrow lot frontage.) The line then runs west along the southern boundary of Lot 15; then runs northwest along the west boundary of Lot 15; then runs in a westerly direction along the right-of-way of the Dexter Court cul-de-sac excluding Lots 19-21, and then runs southwest along the south boundary of Lot 18. The line then runs north along the west boundary of Lot 18 to the southern boundary of Lot 805. The line then runs west along the southern boundaries of Lots 805 and 800; then runs north along the west boundary of Lot 800; then runs west to Foxhall Road along the southern boundary of Lot 804. The line then runs south along the center line of Foxhall Road; then runs west along the northern boundary of Lot 813 of Square 1380; then runs southwest along the rear of Lots 4, 5, and 820 of Square 1380; then runs west to 49th Street along the southern boundaries of Lots 820 to 824, 826, and 6 of Square 1380. The line then runs north along the western boundary of 49th Street right-of-way; continues east along the northern boundary of Cathedral Avenue right-of-way; and turns north along the property line at the rear of the properties on the west side of Foxhall Road (including all of Square 1523 and Lots 28 and 29 of Square 1521). The line then runs east along the northern property line of Lot 28 of Square 1521 to Foxhall Road, and then runs north along the west boundary of the Foxhall Road right-of-way to Nebraska Avenue. The line then runs northeast along the center line of Nebraska Avenue to the point of origin at the intersection of New Mexico and Nebraska Avenues, N.W.; and

(b) The properties that are contained within the boundaries of the R-14 and R-15 zones include all of Squares 1338 to 1340, 1380, 1381, 1406, 1408, 1521, 1523, 1524, 1603 through 1612, 1614, 1615, 1619 through 1622, 1625, 1626, 1700, and 1701; and a portion of Squares 1341, 1397, and 1601 (those portions include Lots 11, 12, 15 to 18, 24, 25, 28 through 34, 36, 37, 800, 804, 805, 807, 810, 814, 819, 821, 824, 825, and 868, and a portion of Lots 35, 857, and 869 in Square 1341; Lots 4 through 6, 814 through 816, 818, 820 through 824, and 826 in Square 1397; and Lots 804 and 805 in Square 1601).

122 WOODLEY PARK NEIGHBORHOOD MIXED-USE ZONES

122.1 The Woodley Park Neighborhood Mixed-Use zones (NC-4 and NC-5) are applied to a compact geographic area surrounding the Woodley Park/Zoo Metrorail station, comprising those lots zoned NC-4 in Squares 2202 and 2203 and those lots zoned NC-5 in Square 2204.

123 CAPITOL HILL COMMERCIAL MIXED-USE ZONES

123.1 The Capitol Hill Commercial Mixed-Use zones (MU-25 and MU-26) encompass the geographic area in southeast and northeast Washington generally identified as follows:

(a) Massachusetts Avenue, N.E./Stanton Park corridor, between 2nd Street and 6th Street, N.E.;

(b) Pennsylvania Avenue, S.E., between 2nd Street and 4th Street, S.E.;

(c) Pennsylvania Avenue, S.E., between 6th Street and 13th Street, S.E.;

(d) Eighth Street, S.E., between Pennsylvania Avenue, S.E., and the Southeast Expressway; and

(e) Seventh Street, S.E., between North Carolina Avenue and Pennsylvania Avenue, S.E.

123.2 The Capitol Hill Commercial Mixed-Use zones shall include all of the following lots or squares zoned MU-25 and MU-26:

(a) Square 755: those lots that abut Massachusetts Avenue, N.E.;

(b) Square 756: those lots that abut Massachusetts Avenue, N.E., and D Street, N.E.;

(c) Square 762: those lots that abut Pennsylvania Avenue, S.E.;

(d) Square 781: those lots that abut Massachusetts Avenue, N.E.;

(e) Square 782: those lots that abut Massachusetts Avenue, N.E.;

(f) Square 789: those lots that abut Pennsylvania Avenue, S.E.;

(g) Square 790: those lots that abut Pennsylvania Avenue, S.E.;

(h) Square 813: those lots that abut Stanton Park (also known as Stanton Square) and C Street, N.E.;

(i) Square 814: those lots that abut Stanton Park (also known as Stanton Square) and C Street, N.E.;

(j) Square 837: those lots that abut Stanton Park (also known as Stanton Square) and C Street, N.E.;

(k) Square 838: those lots that abut Stanton Park (also known as Stanton Square) and C Street, N.E.;

(l) Square 873;

(m) Square 874: those lots that abut Pennsylvania Avenue, S.E.;

(n) Square 900: those lots that abut 7th Street, S.E.;

(o) Square 902: those lots that abut 8th Street, S.E., and D Street, S.E.;

(p) Square 903: those lots that abut 8th Street, S.E.;

(q) Square 904: those lots that abut 8th Street, S.E.;

(r) Square 925: those lots that abut 8th Street, S.E.; D Street, S.E.; and Pennsylvania Avenue, S.E.;

(s) Square 926: those lots that abut 8th Street, S.E.;

(t) Square 928;

(u) Square 947;

(v) Square 948;

(w) Square 972: those lots that abut Pennsylvania Avenue, S.E.;

(x) Square 973: those lots that abut E Street, S.E., and Pennsylvania Avenue, S.E.;

(y) Square 994: those lots that abut Pennsylvania Avenue, S.E.;

(z) Square 1019: those lots that abut Pennsylvania Avenue, S.E., and 12th Street, S.E.; and

(aa) Square S1019.

TITLE 11 – ZONING

SUBTITLE X GENERAL PROCEDURES

TITLE 11 – ZONING X-1

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CHAPTER 1 CAMPUS PLANS, SCHOOL PLANS, AND MEDICAL CAMPUS PLANS

100 GENERAL PROVISIONS

100.1 The provisions of this chapter shall apply to the following:

(a) Education uses as a university or college when permitted as a special exception;

(b) Private schools when permitted as a special exception; and

(c) Medical campus plans when permitted as a special exception.

100.2 The intent of regulating campus facilities is to:

(a) Promote well planned and designed educational campuses;

(b) Encourage long-term facilities planning for these uses;

(c) Minimize negative impacts of campuses on surrounding residential areas; and

(d) Provide consistency and transparency to the campus planning process.

101 CAMPUS PLANS

101.1 Education use by a college or university shall be permitted as a special exception subject to review and approval by the Zoning Commission after its determination that the use meets the applicable standards and condition of this chapter.

101.2 The uses shall be located so that they are not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable conditions.

101.3 Any commercial use customarily incidental to a university use in an R, RF, or RA zone, or as an adjunct use to a university building, shall be subject to the following conditions:

(a) There shall be a demonstrated and necessary relationship between the use and the university functions;

(b) The total floor area of all commercial uses, including basement or cellar space, shall occupy no more than ten percent (10%) of the gross floor area of the total campus plan floor area; and

(c) The commercial use shall be located so that it will not become objectionable to non-university residential neighbors due to hours of operation, noise, parking, loading, lighting, trash, or other operational characteristics that are not customarily associated with a residential use.

101.4 The campus plan process shall not serve as a process to create general commercial activities or developments unrelated to the educational mission of the applicant or that would be inconsistent with the Comprehensive Plan.

101.5 The following development standards shall apply to the maximum total density of all buildings and structures on the campus in an R, RF, RA, or RC-1 zone:

TABLE X § 101.5: MAXIMUM TOTAL DENSITY OF ALL BUILDINGS AND STRUCTURES

Zone	Maximum Height (Feet)	Maximum Floor Area Ratio
All R and RF zones	50	1.8
RA-1, RA-2, RA-6, RA-7, RA-8, RC-1	50	1.8
RA-3, RA-4, RA-5, RA-9, RA-10	90	3.5

101.6 Because of permissive increases as applicable to normal bulk requirements in the low-density zones regulated by this title, it is the intent of this subsection to prevent unreasonable campus expansion into improved low-density zones.

101.7 In calculating floor area ratio (FAR), the land area shall not include public streets and alleys, but may include interior private streets and alleys within the campus boundaries.

101.8 As a prerequisite to requesting a further processing for each college or university use, the applicant shall have submitted to the Zoning Commission for its approval a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements including, but not limited to, the following:

(a) Buildings and parking and loading facilities;

(b) Screening, signs, streets, and public utility facilities;

(c) Athletic and other recreational facilities; and

(d) A description of all activities conducted or to be conducted on the campus, and of the capacity of all present and proposed campus development.

101.9 The further processing of specific buildings, structures, and uses within an approved campus plan shall be processed as a special exception unless the campus plan approval was included in an order granting a first-stage planned unit

development (PUD) for the campus, in which case the further processing shall be in the form of second-stage planned unit development applications filed consistent with the conditions of the approved campus plan/PUD.

101.10 Within a reasonable distance of the college or university campus, and subject to compliance with Subtitle X § 101.2, the Zoning Commission may also permit the interim use of land or improved property with any use that the Zoning Commission may determine is a proper college or university function. The land need not be included in the campus plan. When a major new building that has been proposed in a campus plan is instead moved off-campus, the previously designated site shall not be designated for, or devoted to, a different major new building unless the Zoning Commission has approved an amendment to the campus plan applicable to the site; provided, that for this purpose a major new building is defined as one specifically identified in the campus plan.

101.11 In reviewing and deciding a campus plan application or new building construction pursuant to a campus plan, the Zoning Commission shall consider, to the extent they are relevant, the policies of the District Elements of the Comprehensive Plan.

101.12 As an integral part of the application requesting approval of new building construction pursuant to a campus plan, the college or university shall certify and document that the proposed building or amendment is within the FAR limit for the campus as a whole, based upon the computation included in the most recently approved campus plan and the FARs of any other buildings constructed or demolished since the campus plan was approved.

101.13 Pursuant to Subtitle Z § 405.1, as soon as the application is accepted, the Office of Zoning shall refer the application to the Office of Planning, the Department of Transportation, and the Department of Energy and Environment for review and written reports.

101.14 Approval of a campus plan shall be based on the determination by the Zoning Commission that the application will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, in accordance with the Zoning Regulations and Zoning Maps, subject to the special conditions specified in this section.

101.15 Small deviations from plans approved under further processing that are determined necessary by the Zoning Administrator for compliance with life, safety, or building codes, may be permitted without an amendment to a further processing provided the deviation does not result in an increase in gross floor area of more than four-hundred and fifty square feet (450 sq. ft.) and the addition shall only be used for purposes of ingress, egress, or handicap access.

101.16 A further processing of a campus building shall not be filed simultaneously with a full campus plan application. However, an amendment to an approved campus

plan may be considered simultaneously with the further processing if determined necessary by the Zoning Commission.

102 SPECIAL EXCEPTION FOR USE OF COMMERCIAL PROPERTY BY A COLLEGE OR UNIVERSITY

102.1 A property in the low-density mixed-use zones (MU-3, MU-4, MU-18, MU-25 through MU-29, and RC-2) and any NC zone to be used by a university or college for a use other than the matter-or-right uses established in Subtitle F and Subtitle G shall be permitted as a special exception, subject to review and approval by the Zoning Commission and subject to the provisions of this section.

102.2 An application under this section shall be processed under the rules and procedures for a special exception in Subtitle Y or as part of campus plan.

102.3 The proposed use shall be compatible with other uses in the area.

102.4 The use shall not be objectionable because of its effect on the character of the neighborhood or because of noise, traffic, lighting, or other conditions.

102.5 An applicant may request that use of property under this section be considered as part of a campus plan subject to Subtitle X § 101 and, if agreed to by the Zoning Commission, it shall be subject to the conditions of the campus plan approval and no additional special exception shall be required.

102.6 The Zoning Commission may consider the scope of the use and its relationship to any campus plan by the same university or college. The Zoning Commission may determine that an application under this section is more properly considered as part of a campus plan and may require the applicant to include the use and property within a campus plan subject to review and approval of Subtitle X § 101.

103 MEDICAL CAMPUS PLANS

103.1 Medical care uses to be located in two (2) or more buildings that would individually be subject to approval as a special exception may be collectively approved as a medical campus plan.

103.2 A medical campus shall be permitted as a special exception, subject to review and approval by the Zoning Commission, after their determination that the use meets the applicable standards and condition of this chapter.

103.3 A medical campus plan shall not incorporate a design review of individual buildings but shall focus on the site planning, efficient arrangement of uses and buildings, flexibility to use shared facilities, and mitigation of any adverse impacts.

103.4 A medical campus may be comprised of facilities under one (1) or multiple authorities or providers.

103.5 A medical campus may include hospitals, clinics, primary care offices, medical office buildings, nursing and convalescence care facilities, continuing care retirement community, related and shared parking and loading facilities, and ancillary retail and services that are customarily incidental to the uses.

103.6 A medical campus shall be generally in a defined geography and buildings may be separated by public streets and alleys.

103.7 The development standards for a medical campus shall be those of the zone in which the medical campus is located; however, the Zoning Commission may allow for the comprehensive allocation of FAR, shared parking and loading, and other deviations from the requirements of this title that result in an efficient use of land and delivery of services within the campus.

103.8 All buildings covered under an approved medical campus may apply for a building permit as a matter-of-right consistent with the conditions of the medical campus plan.

103.9 Pursuant to Subtitle Z § 405.1, as soon as the application is accepted, the Office of Zoning shall refer the application to the Office of Planning, the Department of Transportation, and the Department of Energy and Environment for review and written reports.

103.10 Approval of a medical campus plan shall be based on the determination by the Zoning Commission that the application will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, in accordance with the Zoning Regulations and Zoning Maps, subject to the special conditions specified in this section and in the applicable special exception provisions of the zone in which the medical campus is located.

104 PRIVATE SCHOOL PLAN

104.1 Education use by a private school shall be permitted as a special exception subject to review and approval by the Board of Zoning Adjustment after its determination that the use meets the applicable standards of Subtitle X, Chapter 9 and conditions of this section.

104.2 The private school shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions.

104.3 The development standards for a private school shall be those of the zone in which the private school is located.

104.4 In calculating density, the land area shall not include public streets and alleys, but may include interior private streets and alleys within the school boundaries.

105 SCHOOL PLAN REQUIREMENTS

105.1 The applicant shall submit to the Board of Zoning Adjustment for its approval a plan for the school showing the location, height, and bulk, where appropriate, of all present and proposed improvements, including, but not limited to, the following:

(a) Buildings and parking and loading facilities;

(b) Screening, signs, streets, and public utility facilities;

(c) Athletic and other recreational facilities;

(d) A description of all activities conducted or to be conducted in the school, and of the capacity of all present and proposed school development; and

(e) Any other relevant information.

105.2 Pursuant to Subtitle Y § 405.2, the Office of Zoning shall, within ten (10) days after the receipt of the application, refer the application to the Office of Planning, the Department of Transportation, and the Department of Energy and Environment for review and written reports

105.3 Approval of a private school shall be based on the determination by the Board of Zoning Adjustment that the application will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, in accordance with the Zoning Regulations and Zoning Maps, subject to the special conditions specified in this section.

106 APPLICATION REQUIREMENTS

106.1 An application for a campus plan/further processing review shall comply with the requirements of Subtitle Z § 302.

106.2 An application for a medical campus plan review shall comply with the requirements of Subtitle Z § 302.

106.3 An application for a school plan review shall comply with the requirements of Subtitle Y § 300.

CHAPTER 2 CHANCERY APPLICATIONS

200 GENERAL PROVISIONS

200.1 This chapter provides regulations regarding an application to locate, replace, or expand a chancery use not otherwise permitted as a matter-of-right, to implement the Foreign Missions Act, approved August 24, 1982 (96 Stat. 282, as amended; D.C. Official Code §§ 6-1301 to 6-1315 (2012 Repl.).

200.2 For the purposes of this chapter, the term "low- to medium-density residence zones" shall mean all the R and RF zones, and the RA-1, RA-2, RA-3, RA-6, RA-7, RA-8, and RC-1 zones.

200.3 For the purpose of this chapter, the term "special purpose zones" shall mean the MU-1, MU-2, MU-15, MU-16, MU-23, and the D-2 zones.

200.4 For the purposes of this chapter, the term "medium-high density residential zones" shall mean the RA-4 and RA-9 residential apartment zones, and "high-density residential zones" shall mean the RA-5 and RA-10 residential apartment zones.

201 CHANCERY USE CRITERIA

201.1 The Board of Zoning Adjustment shall determine whether to "not disapprove" or "disapprove" a chancery application according to the standards of this section.

201.2 A chancery shall be permitted in the medium-high density residential zones, high-density residential zones, and special purpose zones, subject to disapproval by the Board of Zoning Adjustment in accordance with the review standards of Subtitle X § 201.8.

201.3 For applications requesting to locate, replace, or expand a chancery in a low- to medium-density residence zone, before applying the criteria of Subtitle X § 201.8, the Board of Zoning Adjustment after a hearing on the application shall determine whether the proposed location is in a mixed-use area determined on the basis of existing uses, which includes office and institutional uses.

201.4 For the purposes of Subtitle X § 201.3 determination, the "area" shall be the area that the Board of Zoning Adjustment determines most accurately depicts the existing mix of uses adjacent to the proposed location of the chancery.

201.5 An area shall be considered to be a mixed-use area if as of the date of the application more than fifty percent (50%) of the zoned land within the area is devoted to uses other than residential uses as defined in Subtitle B, Chapter 2. Notwithstanding the foregoing, the Board of Zoning Adjustment may find that an area with less than or equal to fifty percent (50%) of non-residential uses is a

mixed-use area upon a showing of non-residential uses as may be submitted by the applicant, Secretary of State, or the Mayor of the District of Columbia.

201.6 If the Board of Zoning Adjustment finds that the area is a mixed-use area, the Board of Zoning Adjustment shall then determine the merits of the application based on the criteria of Subtitle X § 201.8.

201.7 If the Board of Zoning Adjustment finds that the area is not a mixed-use area, the Board of Zoning Adjustment shall disapprove the application.

201.8 The Board of Zoning Adjustment's determination of the merits of all chancery applications shall be based solely on the following criteria:

(a) The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital;

(b) Historic preservation, as determined by the Board of Zoning Adjustment. In carrying out this section, and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmark;

(c) The adequacy of off-street parking or other parking and the extent to which the area will be served by public transportation to reduce parking needs, subject to such special security requirements as may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services;

(d) The extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services;

(e) The municipal interest, as determined by the Mayor of the District of Columbia; and

(f) The federal interest, as determined by the Secretary of State.

202 EXPANSION OR REPLACEMENT OF EXISTING CHANCERIES

202.1 An existing chancery in a low- to medium-density residential zone may be expanded or replaced, subject to disapproval by the Board of Zoning Adjustment, in accordance with the review standards of Subtitle X § 201.8.

203 BOARD OF ZONING ADJUSTMENT REVIEW

203.1 In addition to the procedures for a special exception case set forth in Subtitle Y, the following procedures apply to the review of chancery applications.

203.2 The consideration of an application submitted under this section shall be considered a rulemaking proceeding.

203.3 Any determination by the Board of Zoning Adjustment shall be based solely on the criteria in Subtitle X § 201.8.

203.4 The Board of Zoning Adjustment shall refer each application to the Office of Planning for review and comment. The Board of Zoning Adjustment shall specifically request a determination by the Mayor as to the municipal interest.

203.5 The Board of Zoning Adjustment shall refer each application to the United States Secretary of State for review and comment, and shall specifically request a determination of the federal interest, as set forth in Subtitle X § 201.8(f), special security requirements, as set forth in Subtitle X § 201.8(c), and the extent to which the site is capable of being adequately protected, as set forth in Subtitle X § 201.8(d).

203.6 If the application would require the construction, demolition, or alteration of a building located in a historic district, the alteration or demolition of a historic landmark, or the construction of a building or structure on the site of a historic landmark, the application shall be referred to the Historic Preservation Review Board, and if the property is located in the Old Georgetown District described in D.C. Official Code § 6-1201, it shall also be referred to the Commission of Fine Arts for the Historic Preservation Review Board and the Commission of Fine Arts to report as to whether the substantive criteria of Subtitle X § 201.9 have been met.

203.7 The Board of Zoning Adjustment may grant relief to the requirements of this title for chanceries in all zones, and may grant permission to construct improvements in the public space to be undertaken as part of a chancery application being reviewed by the Board of Zoning Adjustment, consistent with what is permitted under District law and in accordance with the procedures and standard of this chapter.

203.8 A final determination on a chancery application shall be published in the *D.C. Register* not later than six (6) months after the date a complete application is filed.

203.9 The Board of Zoning Adjustment's determination shall not be subject to administrative proceedings of any other District agency.

204 IMPLEMENTATION

204.1 Following the publication of a notice of final rulemaking giving notice of the Board of Zoning Adjustment's decision to not disapprove an application, the applicant may file an application for a building permit with the proper authorities of the District of Columbia.

204.2 The Zoning Administrator shall not approve a permit application unless the submitted construction plans conform to the plans approved by the Board of Zoning Adjustment in its final decision, as those plans may have been modified by any guidelines, conditions, or standards that the Board of Zoning Adjustment may have applied.

205 APPLICATION REQUIREMENTS

205.1 An application for a chancery shall meet the requirements of Subtitle Y § 301.

CHAPTER 3 PLANNED UNIT DEVELOPMENTS

300 PLANNED UNIT DEVELOPMENTS

300.1 The purpose of the planned unit development (PUD) process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD:

(a) Results in a project superior to what would result from the matter-of-right standards;

(b) Offers a commendable number or quality of meaningful public benefits; and

(c) Protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan.

300.2 While providing for greater flexibility in planning and design than may be possible under conventional zoning procedures, the PUD process shall not be used to circumvent the intent and purposes of the Zoning Regulations, or to result in action that is inconsistent with the Comprehensive Plan.

300.3 A PUD case shall be heard by the Zoning Commission and follow the contested case procedures of Subtitle Z, Chapter 4.

300.4 A PUD application may include a related zoning map amendment. A PUD-related zoning map amendment is valid only in combination with and contingent upon a project being built and operated under the conditions of a PUD approval. PUD-related map amendments establish no precedent for the Zoning Commission's consideration of permanent changes to the zoning of the PUD site or adjacent areas or for consideration of future PUDs.

300.5 A comprehensive public review by the Zoning Commission of a PUD is required in order to evaluate the flexibility or incentives requested in proportion to the proposed public benefits.

300.6 The Zoning Commission may approve a PUD application with or without modifications. In carrying out the purposes of this chapter, the Zoning Commission may establish general standards and, in individual cases, set standards and conditions for height and bulk lesser or greater than the standards established for the affected districts in this chapter or elsewhere in this title.

300.7 The Zoning Commission may also set appropriate time limits for benefits conferred as part of a PUD approval to ensure the construction of a proposed development in accordance with the conditions established.

300.8 Failure of an applicant to complete a proposed development as directed within the time limits set by the Zoning Commission or the Zoning Regulations shall result in the termination of the benefits granted under the application, and reversion of the zoning controls to the underlying zone regulations.

300.9 The PUD process is available as an optional process that may be applied for by a property owner.

300.10 The PUD process shall not be used to reduce requirements for designated uses, specifically retail, service, entertainment, and arts uses established within a NC zone.

300.11 For the purposes of this chapter, any reference to "zone" or "zone district" shall mean the zone district or districts in which the PUD site is located, unless a PUD-related map amendment is requested, in which case the reference shall mean the zone district or districts in which the PUD site will be located if the map amendment is granted.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

301 MINIMUM LAND AREA (PUD)

301.1 The minimum area included within a proposed development application, including the area of public streets or alleys proposed to be closed, shall be as follows:

TABLE X § 301.1: MINIMUM PUD LAND AREA

Zone Group	Applicable Zone	Minimum Area
1	Any R zone Any RF zone	2 acres
2	RA-1, -RA-2 RC-1 MU-11	1 acre
3	RF-2 RA-8, RA-9, RA-10 MU-15, MU-16 MU-22	1 acre
4	MU-17, MU-18, MU-19, MU-20, MU-21	0.5 acre
5	NC-7, NC-8, NC-9, NC-10, NC-11, NC-12, NC-13, NC-14, NC-15, NC-16, NC-17	10,000 sq. ft.
6	Any Other Zone	15,000 sq. ft.

301.2 The Zoning Commission may waive the minimum area requirement of Subtitle X § 301.1 for applications in Zone Groups 1, 2, and 6, provided that the Zoning Commission shall find after the public hearing that the development is of exceptional merit and is in the best interests of the District of Columbia or the country and one (1) of the following:

(a) The development is identified in an approved Small Area Plan and will be generally not inconsistent with the Small Area Plan;

(b) The development will be constructed or operated by the District of Columbia or federal government and serves a compelling government interest; or

(c) If the development is to be located outside the Central Employment Area, at least eighty percent (80%) of the gross floor area of the development shall be used exclusively for dwelling units and uses accessory thereto.

301.3 The Zoning Commission may waive up to five percent (5%) of the minimum area requirement of Subtitle X § 301.1 for applications in Zone Groups 3 and 4 provided that the Zoning Commission shall find after the public hearing the development is of exceptional merit and is in the best interests of the District of Columbia or the country.

301.4 All the property included in a PUD in Zone Groups 1, 2, 5, and 6 shall be contiguous, except that the property may be separated only by public streets, alleys, or rights-of-way.

301.5 All property included in a PUD in Zone Groups 3 and 4 shall be contiguous and may neither be separated by a street, alley nor bridge.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

302 PLANNED UNIT DEVELOPMENT APPLICATION TYPES

302.1 A PUD request may be filed as either a one-stage, consolidated, or a two-stage application.

302.2 A two-stage application has two (2) parts as follows:

(a) The first-stage application involves a general review of the site's suitability as a PUD and any related map amendment; the appropriateness, character, scale, height, mixture of uses, and design of the uses proposed; and the compatibility of the proposed development with the Comprehensive Plan, and city-wide, ward, and area plans of the District of Columbia, and the other goals of the project; and

(b) The second-stage application is a detailed site plan review to determine transportation management and mitigation, final building and landscape materials and compliance with the intent and purposes of the first-stage approval, and this title.

302.3 A consolidated application shall incorporate all information and material for both a first- and second-stage application as required by Subtitle A §§ 309.11 and

309.12 into one (1) application, and all information shall be submitted at the time of initial filing.

302.4 When the Zoning Commission considers whether to set down a consolidated application for a hearing, the Zoning Commission shall determine whether the application is sufficiently clear and detailed to be considered at one (1) proceeding.

302.5 The Zoning Commission reserves the right to direct an applicant to revise a consolidated application into a two-stage application, if in the opinion of the Zoning Commission the circumstances and issues surrounding the proposal require a two-stage review.

302.6 If any proposed use or building would require a special exception under the existing zoning for the site, but the special exception would not be required if a proposed map amendment is granted, the Zoning Commission need not consider the special exception nor refer the application to the Board of Zoning Adjustment for its consideration.

302.7 The Zoning Commission may dismiss or deny the application at the conclusion of the presentation of the applicant's case or at any point thereafter.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

303 PLANNED UNIT DEVELOPMENT FLEXIBILITY

303.1 As part of the PUD process, the Zoning Commission may grant relief from any building development standard or other standard referenced in the zone reference table with the exception of use regulations. Housing and arts credits are considered use regulations and are not eligible for flexibility through the PUD process.

303.2 If the PUD includes more than one (1) zone district, the FAR of all buildings shall not exceed the aggregate of the FAR as permitted in the several zone districts included within the PUD area.

303.3 Except as limited in Subtitle X §§ 303.5 and 303.6 , the Zoning Commission may increase the maximum total density permitted on the site by no more than twenty percent (20%) of that maximum matter-of-right permitted by the zone district(s) associated with the PUD As part of the twenty percent (20%) increase, the Zoning Commission may increase the maximum density for non-residential uses by no more than thirty-four percent (34%) of the maximum matter-of-right non-residential density permitted within the zone district associated with the PUD.

303.4 The twenty percent (20%) PUD related increase in density permitted under Subtitle X § 303.3 may be calculated using the matter-of-right density and the IZ bonus density when the PUD includes a full allocation of Inclusionary Zoning units consistent with Subtitle C, Chapter 10.

303.5 The matter-of-right floor area ratio limits shall serve as the density guidelines for a PUD in the NC zones.

303.6 The matter-of-right floor area ratio limits shall serve as the maximum permitted density for a PUD in the following zones:

(a) MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21, MU-22, MU-25, MU-26;

(b) RF-2; and

(c) RA-8, RA-9, and RA-10.

303.7 Except as permitted for a penthouse pursuant to Subtitle X § 303.18, no building or structure shall exceed the maximum PUD height permitted in the least restrictive zone district within the PUD site as set forth in the following table; provided, that the Zoning Commission may authorize the deviations permitted pursuant to Subtitle X § 303.10:

TABLE X § 303.7: MAXIMUM PERMITTED PUD BUILDING HEIGHT IN THE LEAST RESTRICTIVE ZONE DISTRICT

Zone	Maximum PUD Height (feet)
RF-1, RF-3, RF-4, RF-5	50
RA-1, RA-2, RA-7, RC-1	60
RA-3	75
RA-4, RA-5	90
RA-6	40
MU-1	75
MU-2	90
MU-3	40
MU-4	65
MU-5	90
MU-6	110
MU-7, MU-8	90
MU-9	130
MU-10	110
MU-11	40
MU-12	60
MU-13	80
MU-14	100
MU-23	90
MU-24, MU-25, MU-26	65
MU-27	40
MU-28 (C-3-A/FT)	90
MU-29 (CR/FT)	110
D zones	As permitted in Subtitle I
PDR-1, PDR-2	60
PDR-3, PDR-4, PDR-5, PDR-6	90

PDR-7 (M/FT)	90
NC-1, NC-2, NC-3, NC-4, NC-5, NC-6, NC-7, NC-8, NC-9, NC-10, NC-11, NC-12, NC-13 NC-14, NC-15, NC-16, NC-17	In these NC zones, the matter-of-right height limits shall serve as the guidelines for a PUD.
RF-2, RA-8, RA-9, RA-10, MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21, MU-22	The matter-of-right height limits shall serve as the maximum permitted height for a PUD.

303.8 In the NC-7 and NC-8 zones, any additional height and floor area above that permitted as a matter-of-right shall be for residential use only.

303.9 In the NC-9 through NC-13 zones, any additional height and floor area above that permitted as a matter-of-right shall be used only for housing or the preferred uses of the NC-9 through NC-13 zones.

303.10 The Zoning Commission may authorize the following increases; provided, that the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of this chapter:

(a) An increase of not more than five percent (5%) in the maximum building height but not the maximum penthouse height; or

(b) An increase of not more than five percent (5%) in the maximum density.

303.11 The amount of flexibility from all other development standards not addressed by this section shall be at the discretion of the Zoning Commission.

303.12 A PUD-related zoning map amendment shall be considered flexibility against which the Zoning Commission shall weigh the benefits of the PUD.

303.13 As part of any PUD, the applicant may request approval of any relief for which special exception approval is required. The Zoning Commission shall apply the special exception standards applicable to that relief, unless the applicant requests flexibility from those standards. Any such flexibility shall be considered the type of development flexibility against which the Zoning Commission shall weigh the benefits of the PUD.

303.14 As part of any PUD, the applicant may request the Zoning Commission to grant an area variance to permit additional height and density beyond that permitted by this section. The Zoning Commission shall apply and not deviate from the variance standard stated at Subtitle X, Chapter 10.

303.15 The PUD height and density standards for the special purpose zones are contained in Subtitle K for those zones.

303.16 An electronic equipment facility (EEF) may occupy more than fifty percent (50%) of the gross floor area of a building in the MU-7, MU-8, MU-9, or any D zone, if approved as part of a PUD in accordance with the requirements of this chapter and subject to the following additional criteria:

(a) The aggregate total area to be devoted to EEF use may not exceed fifty percent (50%) of the permitted gross floor area of the entire project; and

(b) The EEF shall be located on a portion of the lot that does not directly front on a street so as to preclude retail, service, and office uses from being developed on the street frontage of the project.

303.17 Any additional density (whether residential or non-residential) or development rights granted through a PUD, including PUD-related map amendments, cannot be transferred as part of a combined lot development

303.18 The matter-of-right penthouse height and number of story limits shall serve as the maximum permitted penthouse height and stories for a PUD except in the following zones:

TABLE X § 303.18: MAXIMUM PUD PENTHOUSE HEIGHT AND STORIES

Zone	Maximum Penthouse Height	Maximum Penthouse Stories
RA-1	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
MU-4, MU-12, ARTS-1; CG-6 NC-7, NC-9, NC-14, NC-16 PDR-1, PDR-6	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
RA-3 MU-1	20 ft.	1; second story permitted for penthouse mechanical space
MU-5, MU-7, MU-8, MU-28 NC-8, NC-10, NC-12, NC-13, NC-15, NC-17 ARTS-2 PDR-2	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

304 PLANNED UNIT DEVELOPMENT EVALUATION STANDARDS

304.1 The Zoning Commission will evaluate and grant or deny a PUD application according to the standards of this section.

304.2 The applicant shall have the burden of proof to justify the granting of the application according to these standards.

304.3 In deciding a PUD application, the Zoning Commission shall judge, balance, and reconcile the relative value of the public benefits project and amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.

304.4 The Zoning Commission shall find that the proposed development:

(a) Is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site;

(b) Does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and

(c) Includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site

305 PLANNED UNIT DEVELOPMENT PUBLIC BENEFITS

305.1 The Zoning Commission shall also evaluate the specific public benefits and project amenities of the proposed development, which features may in some instances overlap.

305.2 Public benefits are superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions of this title.

305.3 All public benefits shall meet the following criteria:

(a) Benefits shall be tangible and quantifiable items;

(b) Benefits shall be measurable and able to be completed or arranged prior to issuance of a certificate of occupancy;

(c) Benefits may primarily benefit a particular neighborhood or area of the city or service a critical city-wide need; and

(d) Monetary contributions shall only be permitted if made to a District of Columbia government program or if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides

proof to the Zoning Administrator that the items or services funded have been or are being provided.

305.4 A majority of public benefits of the proposed PUD should relate to the geographic area of the Advisory Neighborhood Commission in which the application is proposed.

305.5 Public benefits of the proposed PUD may be exhibited and documented in any of the following or additional categories:

(a) Superior urban design and architecture;

(b) Superior landscaping, or creation or preservation of open spaces;

(c) Site planning and efficient and economical land utilization;

(d) Commemorative works or public art;

(e) Historic preservation of private or public structures, places, or parks;

(f) Housing that:

(1) Exceeds the amount that would have been required through matter-of-right development under existing zoning;

(2) Includes senior housing; or

(3) Provides units with three (3) or more bedrooms;

(g) Affordable housing; except that affordable housing provided in compliance with the Inclusionary Zoning requirements of Subtitle C, Chapter 22, shall not be considered a public benefit except to the extent it exceeds what would have been required through matter-of-right development under existing zoning. In determining whether this standard has been met, the Zoning Commission shall balance any net gain in gross floor area against any loss of gross floor area that would have been set-aside for "low-income households" as defined in the Inclusionary Zoning requirements of Subtitle C, Chapter 10;

(h) Employment and training opportunities;

(i) Social services and facilities for the duration of the PUD, including, but not limited to, space dedicated for a day care or elderly care facility, for the duration of the PUD. The day care must be available to the general public and open during normal business hours at least five (5) days each week and fifty (50) weeks each calendar year. The space for each child shall be based on the requirement outlined in the Child Development Facilities Regulations;

(j) Building space for special uses including, but not limited to, community educational or social development, promotion of the arts or similar programs and not otherwise required by the zone district, a grocery store larger than fifteen thousand square feet (15,000 sq. ft.) in areas where a grocery store does not exist within a three mile (3 mi.) radius, or incubation space for small or local businesses;

(k) Environmental and sustainable benefits to the extent they exceed the standards required by zoning or other regulations including, but not limited to:

(1) Storm water runoff controls in excess of those required by Stormwater Management Regulations;

(2) Use of natural design techniques that store, infiltrate, evaporate, treat, and detain runoff in close proximity to where the runoff is generated;

(3) Garden(s) or on-site food production through permanent and viable growing space and/or facilities such as a greenhouse or a garden conservatory which provide fencing, watering systems, soil, secured storage space for tools, solar access, and pedestrian access as applicable. The facility shall be designed to be architecturally compatible with the development and to minimize the visibility of mechanical equipment;

(4) Total green area ratio scores that exceed requirements by at least one-tenth (0.1); and

(5) Meeting the minimum standards for Leadership in Energy and Environmental Design (LEED) Gold certification. The project does not have to achieve actual LEED certification; however, the developer must include the LEED checklist and documentation in the application, approved by a LEED Accredited Professional (LEED-AP) that shows that the project will comply with LEED requirements;

(l) Streetscape plans, subject to approval by the Department of Transportation Public Space Committee including implementation and maintenance of the streetscape for the duration of the project for areas where there are no design standards;

(m) Outdoor children's play area: a public, active, outdoor children's play area that shall be secure, separated from parking and maneuvering areas, and designed to facilitate adult supervision. The play area shall include play equipment, installed to the manufacturer's specifications, or natural features suitable for children in both preschool and elementary school. The play area shall be a minimum of five hundred square feet (500 sq. ft.);

(n) Park maintenance or participation in the Department of Park and Recreation (DPR) "Adopt-a-Park Program" for the life of the development;

(o) Transportation infrastructure beyond that needed to mitigate any potential adverse impacts of the application including, but not limited to, dedication and/or construction of a public street or alley; maintenance of a street median; or provision of a public easement for a pedestrian walkway that would not otherwise be required;

(p) Mass transit improvements, including, but not limited to, location and funding of a shared bike station; accommodation, and/or construction of a Metro station entrance; or donation of space for a transit store or other similar space to provide services such as the sale of transit cards, Metro passes, bus and train schedules, and information on bike and car sharing programs, etc.;

(q) Uses of special value to the neighborhood or the District of Columbia as a whole; and

(r) Other public benefits and project amenities and other ways in which the proposed PUD substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan.

305.6 Public benefits other than those listed above may be proposed to and considered by the Zoning Commission.

305.7 Public benefits other than affordable housing, such as public facilities or public open space, may be located off-site; provided, that:

(a) There is a clear public policy relationship between the PUD proposal and the off-site benefit; and

(b) The off-site benefit shall be located within one-quarter mile (.25 mi.) of the PUD site or within the boundaries of the ANC for the area that includes the PUD site.

305.8 If the off-site public benefit is affordable housing, it shall be provided according to the requirements of Subtitle X § 306.

305.9 Elements or items required as mitigation to potential adverse impacts of the PUD shall not also be considered as benefits for the purposes of this section

305.10 A project amenity is one (1) type of public benefit, specifically a functional or aesthetic feature of the proposed development that adds to the attractiveness, convenience, or comfort of the project for occupants and immediate neighbors.

305.11 The Zoning Commission may not compel an applicant to add to proffered public benefits, but shall deny a PUD application if the proffered benefits do not justify the degree of development incentives requested (including any requested map amendment). Nevertheless, the Zoning Commission may at any time note the insufficiency of the public benefits and suggest how the benefits may be improved.

305.12 A project may qualify for approval by being particularly strong in only one (1) or a few of the categories in this section, but must be acceptable in all proffered categories and superior in many.

306 HOUSING LINKAGE

306.1 A PUD application that proposes an increase in gross floor area devoted to office space over and above the amount of office space permitted as a matter-of-right in the underlying existing zone of the PUD site shall comply with the housing linkage requirements of this section.

306.2 The applicant shall produce or financially assist in the production of dwellings or multiple dwellings that are affordable to low- and moderate-income people; provided that:

(a) The quantity of low- and moderate-income housing that is required shall be based upon the requested increase in office FAR; and

(b) Income limits shall apply to housing that is constructed on the site of the PUD in accordance with Inclusionary Zoning standards.

306.3 The applicant may either provide the required housing by means of new construction or rehabilitation as specified in Subtitle X § 306.5, or may elect to make a financial contribution as provided in Subtitle X § 306.6.

306.4 The following exclusions and modifications shall apply:

(a) Commercial floor area other than office space shall be excluded from these computations for the proposed PUD; provided, that the matter-of-right commercial density of the existing zone shall be reduced by 0.5 FAR to allow for normal retail use;

(b) If the proposed PUD provides an amount of housing equal to or greater than the housing that would be required under this section, no additional housing shall be required;

(c) No housing requirement pursuant to this section shall apply to a PUD that is proposed for property located in a D zone, or to any PUD application filed by an agency of the federal government, or the Washington Metropolitan Area Transit Authority (WMATA); and

(d) An applicant may apply for a reduction or elimination of the housing required under this section as part of a PUD application provided the Zoning Commission finds, after public hearing, that the reduced or eliminated housing requirement is necessitated or justified by the project's provision of extraordinary public benefits that are of both exceptional merit and in the best interests of the city or the country.

306.5 If the applicant constructs or rehabilitates the required housing, the following conditions shall apply:

(a) The gross square footage of new or rehabilitated housing shall be based upon the gross square footage of increased office space that the PUD provides in excess of that allowed as a matter-of-right by the underlying existing zone of the PUD site; provided, that the amount of housing required shall be as follows:

(1) Not less than one-fourth (1/4) of the gross square feet of increased office space if the required housing is part of the PUD or is situated on adjacent property;

(2) Not less than one-third (1/3) of the gross square feet of increased office space if the location of the required housing does not comply with subparagraph (1) of this paragraph, but is nonetheless within the same Advisory Neighborhood Commission area as the PUD; and

(3) Not less than one-half (0.5) of the gross square feet of increased office space if the location of the required housing is other than as approved in subparagraphs (1) and (2) above;

(b) The applicant may construct or rehabilitate the housing units, or may secure the housing production by other business arrangements, including, but not limited to, joint venture, partnership, or contract construction;

(c) If the housing is provided as new construction, the average square feet of gross floor area per dwelling or per apartment unit shall be not less than eight hundred and fifty square feet (850 sq. ft.); provided, that no average size limit shall apply to rooming houses, boarding houses, or units that are deemed single-room occupancy housing;

(d) For purposes of this section, the word "rehabilitation" means the substantial renovation of housing for sale or rental that is not habitable for dwelling purposes because it is in substantial violation of the Housing Regulations of the District of Columbia (14 DCMR);

(e) In the case of rental housing, the required housing shall be maintained as affordable dwelling units for the duration of the PUD, but not less than twenty (20) years;

(f) If the required housing is provided for home ownership, the housing shall be provided at income levels and duration consistent with the Inclusionary Zoning Implementation Amendment Act of 2006 (the IZ Act), effective March 14, 2007 (D.C. Law 16-275; 54 DCR 880 (February 2, 2007)). References to the IZ Act include any Mayor's Order, agency rule, or other administrative issuance promulgated pursuant to that legislation; and

(g) No certificate of occupancy shall be issued for the office component of a PUD that is subject to the provisions of this section until a certificate of occupancy has been issued for the housing required pursuant to this section.

306.6 As an alternative to constructing or rehabilitating the required housing as provided in Subtitle X § 306.5, the applicant may contribute funds to the District of Columbia's housing production trust fund; provided:

(a) The contribution shall be equal to one-half (0.5) of the assessed value of the increase in permitted gross floor area for office use;

(b) The assessed value shall be the fair market value of the property as indicated in the property tax assessment records of the Office of Tax and Revenue as of the date of the PUD application; and

(c) The contribution shall be determined by dividing the assessed value per square foot of land that comprises the PUD site by the maximum permitted commercial FAR and multiplying that amount times the requested increase in gross square feet proposed for office use.

306.7 If any housing exists on the development site and is to be removed in order to allow construction of the PUD, the total assessed value of the housing removed shall be added to the financial contribution as computed in Subtitle X § 306.6; provided, that this provision shall apply to any housing removed beginning one (1) year prior to the date of the PUD application.

306.8 Not less than one-half (0.5) of the required total financial contribution shall be made prior to the issuance of a building permit for any part of the office component of the PUD, and the balance of the total financial contribution shall be made prior to the issuance of a certificate of occupancy for any part of the office component of the PUD.

306.9 All affordable housing provided pursuant to this section shall be administered consistent with the IZ Act.

306.10 A PUD that is subject to the housing requirement of this section shall not be relieved of the requirement to be found meritorious pursuant to the evaluation standards in Subtitle X § 306.

306.11 The Office of Planning shall refer each application for a PUD subject to the provisions of this section to the Department of Housing and Community Development for an analysis of compliance with the housing requirements of this section and a recommendation.

307 PLANNED UNIT DEVELOPMENT APPLICATION REQUIREMENTS

307.1 A PUD application shall meet the requirements of Subtitle Z § 300.

308 PLANNED UNIT DEVELOPMENT PROCEDURES

308.1 The Zoning Commission shall refer all PUD applications to the Office of Planning, which shall provide a report to the Zoning Commission that includes whether the application is:

(a) Not inconsistent with the Comprehensive Plan;

(b) Consistent with the purpose of the PUD process; and

(c) Generally ready for a public hearing to be scheduled.

308.2 Following the receipt of the report from the Office of Planning, the Zoning Commission shall review the application and determine whether a public hearing shall be granted. An application may be denied without a hearing, but no application shall be granted unless a public hearing is held.

308.3 If the Zoning Commission determines a second-stage application complies with all of the requirements of the first-stage approval, it shall schedule a public hearing on the second-stage application. It is the intention of the Zoning Commission that any second-stage application that is substantially in accordance with the elements, guidelines, and conditions of the first-stage approval shall be granted a hearing.

308.4 If a public hearing is granted, the Office of Planning shall coordinate review of the application and prepare an impact assessment of the project, which shall include reports in writing from relevant District of Columbia departments and agencies, including, but not limited to, the Departments of Transportation and Housing and Community Development, and, if a historic district or historic landmark is involved, the Historic Preservation Office.

308.5 The Office of Planning shall report as appropriate, on the:

(a) Suitability of the site for use as a PUD;

(b) Appropriateness, character, scale, mixture of uses, and design of the uses proposed for the proposed development, and other identifiable public benefits;

(c) Compatibility of the proposed development with the Comprehensive Plan and the goals of the PUD process;

(d) The quality of the urban design and site design of the proposed development; and

(e) Conformance with the PUD evaluation standards of this chapter.

308.6 At the public hearing, the applicant shall carry the burden of justifying the proposal. Failure of groups or persons to appear in opposition shall not relieve the applicant of the responsibility of demonstrating the merits of the application.

308.7 At the public hearing, the applicant shall advise the Zoning Commission of the efforts that have been made to apprise the affected Advisory Neighborhood Commission and other individuals and community groups concerning the proposed development.

308.8 No later than seven (7) days after the Zoning Commission takes proposed action on any PUD application (or for PUDs not involving map amendments seven (7) days after the close of the hearing), the applicant shall file with the Office of Zoning and serve the Office of Planning, the Office of the Attorney General , and the affected Advisory Neighborhood Commission and any other parties, a final list of the public benefits proffered for the PUD (Proffer) and, for each proffer, provide a draft condition that is both specific and enforceable.

308.9 The description of each public benefits shall be identical to the description contained in the applicant's proposed order unless a revision is required for clarity or to reflect a revision.

308.10 The information required by Subtitle X § 308.8 shall be presented in the form of a chart in which with each proffered public benefit is described in one (1) column and a corresponding condition is described in a second. For example:

Proffer	Condition
42. The applicant has agreed to contribute _____ to _____ for the purpose of _____prior to applying for a certificate of occupancy for the PUD.	B.4. Prior to applying for a certificate of occupancy for the PUD, the applicant shall contribute _____ to _____ for the purpose of _____.

308.11 No later than fourteen (14) days after the Zoning Commission takes proposed action on any PUD application (or for PUDs not involving map amendments, fourteen (14) days after the close of the hearing), the Office of the Attorney General, Office of Zoning, and Office of Planning shall complete any dialogue they feel is needed with the applicant with respect to any deficiencies in the applicant's proposed conditions.

308.12 No later than twenty-one (21) days after the Zoning Commission takes proposed action on any PUD application (or for PUDs not involving map amendments twenty-one (21) days after the close of the hearing) the applicant shall file with Office of Zoning and serve the Office of Planning, Office of the Attorney General, and the affected Advisory Neighborhood Commission and any other parties, any revisions to the Proffer and conditions, or a statement that none have been made.

308.13 No later than twenty-eight (28) days after the Zoning Commission takes proposed action on any PUD application (or for PUDs not involving map amendments, twenty-eight (28) days after the close of the hearing), the Office of the Attorney General, Office of Planning, and the affected Advisory Neighborhood Commission and any other party may file any responses each has to the applicant's final Proffer and conditions. The responses shall be limited to whether the conditions in the final Proffer are specific and enforceable.

308.14 The Office of the Attorney General response will be treated as a confidential attorney client communication. The Zoning Commission will consider the PUD to contain only those public benefits described in the final Proffer

308.15 The Zoning Commission may relieve an applicant of some or all of the responsibilities of Subtitle X §§ 308.7 through 308.12 in circumstances when it believes the process is unnecessary, such as when it is considering a modification that does not involve a change to the PUDs public benefits.

309 PLANNED UNIT DEVELOPMENT APPROVALS

309.1 The Zoning Commission's first-stage approval shall set forth the appropriate zoning classification to apply to the project, and shall state in detail the elements, guidelines, and conditions that shall be followed by the applicant in the second-stage application.

309.2 If the Zoning Commission finds the application to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval, the Zoning Commission shall grant approval to the second-stage application, including any guidelines, conditions, and standards that are necessary to carry out the Zoning Commission's decision.

309.3 At the point at which a decision is made on a consolidated review application, the Zoning Commission may also determine that a second review is required, and rather than approving the application in a consolidated review, grant first-stage approval only and require that the applicant file additional plans for second-stage approval.

309.4 Provisions conserving the duration and implementation of an approved first- or second-stage PUD appear in Subtitle Z § 702.

309.5 Provisions setting forth the procedure and standards for requesting an extension of the Zoning Commission's first- or second-stage approvals are set forth in Subtitle Z § 706.

309.6 The procedures for modifying or correcting an order approving a PUD are set forth in Subtitle Z.

310 LIMITATIONS ON DEVELOPMENT OF A PUD SITE

310.1 No order approving a PUD shall be deemed to include relief from any zoning regulation, including, but not limited to, the Inclusionary Zoning requirements of Subtitle C, Chapter 26 unless such relief was expressly requested by the applicant and expressly granted in the order.

310.2 The grant of a PUD prohibits any construction on the PUD site that is not authorized in the order approving the PUD, including development under matter-of-right standards, until:

(a) The validity of the PUD order expires; or

(b) The Zoning Commission issues an order granting the applicant's motion to extinguish the PUD.

311 IMPLEMENTATION

311.1 Following approval of an application by the Zoning Commission, the applicant may file an application for a building permit with the proper authorities of the District of Columbia.

311.2 The Zoning Administrator shall not approve a permit application unless the plans conform in all respects to the plans approved by the Zoning Commission, as those plans may have been modified by any guidelines, conditions, or standards that the Zoning Commission may have applied. Nor shall the Zoning Administrator accept the establishment of an escrow account in satisfaction of any condition in the Zoning Commission's order approving the PUD unless the order expressly authorizes an escrow.

311.3 The Zoning Administrator shall not approve a permit application unless the applicant has recorded a covenant in the land records of the District of Columbia between the owner or owners and the District of Columbia satisfactory to the Office of the Attorney General and the Zoning Administrator, which covenant will bind the owner and all successors in title to construct on and use the property only in accordance with the adopted orders, or amendments thereof, of the Zoning Commission.

311.4 Following the recordation of the covenant, the PUD boundaries shall be designated on the Zoning Map.

311.5 The orders of the Zoning Commission issued in accordance with this chapter shall have all the force of this title, and violations shall be prosecuted in accordance with the provisions of Subtitle A § 305 of this title.

311.6 The Zoning Administrator shall have the authority to approve minor modifications in the final plans as approved by the Zoning Commission. These modifications shall be limited to the following:

(a) A change not to exceed two percent (2%) in the height, percentage of lot occupancy, or gross floor area of any building;

(b) A change not to exceed two percent (2%) in the number of residential units, hotel rooms, institutional rooms, or gross floor area to be used for commercial or accessory uses;

(c) A change not to exceed two percent (2%) in the number of parking or loading spaces; and

(d) The relocation of any building within five feet (5 ft.) of its approved location, in order to retain flexibility of design, or for reasons of unforeseen subsoil conditions or adverse topography.

311.7 In reviewing and approving any modification requested pursuant to Subtitle X § 311.6, the Zoning Administrator shall determine that the proposed modification is consistent with the intent of Zoning Commission in approving the PUD.

311.8 Following approval of any modifications under Subtitle X § 311.6, the Zoning Administrator shall report to the Commission the modification approved under this section and may issue a building permit predicated upon the modification if:

(a) Forty-five (45) days have passed since the submittal of the report and the Commission has not make a finding that the modification exceeds the scope of Subtitle X § 311.9; or

(b) Prior to the expiration of that time period the Zoning Commission acknowledges that the modification does not exceed the scope of Subtitle X § 311.6, whichever is the first to occur.

If the Zoning Commission timely decides that the modification exceeded the scope of Subtitle X § 311.6, the Zoning Administrator shall not approve the building permit, but shall instruct the applicant to seek a modification pursuant to Subtitle X § 311.9.

311.9 Any modifications proposed to an approved PUD that cannot be approved by the Zoning Administrator shall be submitted to and approved by the Zoning Commission pursuant to Subtitle Z, Chapter 7.

311.10 The Zoning Administrator shall not approve an application for a certificate of occupancy for a PUD if the order approving the PUD includes a condition requiring the provision of affordable housing unless the owner has executed monitoring and enforcement documents with the District of Columbia, which will bind the owner and all successors in title to abide by such terms as the District considers necessary to ensure that the affordable housing will be constructed, marketed, sold, re-sold, rented, and occupied, so as to be affordable to the target households during the specified control period and safeguarded regarding foreclosure.

311.11 A condition in an order approving or modifying a PUD that requires the provision of affordable housing shall automatically terminate if title to the mortgaged property is transferred following foreclosure by, or deed-in-lieu of foreclosure to, a mortgagee in the first position, or a mortgage in the first position is assigned to the Secretary of the U.S. Department of Housing and Urban Development provided the owner has executed monitoring and enforcement documents per the requirements of Subtitle X § 311.10.

CHAPTER 4 PETITIONS FOR AMENDMENT TO CREATE A NEW ZONE

400 AMENDMENT TO CREATE A NEW ZONE

400.1 Petitions for the creation of a new zone shall be consistent with the conditions of this section.

400.2 The new zone shall be for a well-defined geographic area with generally similar development characteristics and land use.

400.3 Proposed new zones shall not be inconsistent with the Comprehensive Plan or with applicable small area plans.

400.4 Proposed new zones shall not result in adverse impacts on the environment or adjacent lands.

400.5 Proposed new zones shall not result in the undue diminution of property rights.

400.6 Petitions for a new zone shall be accompanied by the following:

(a) Evidence of significant community support for the zone including property owners within the defined area, relevant civic, community and business groups, and the Advisory Neighborhood Commission, including the single member district representation; and

(b) Surveys, plats, maps, scaled elevations, or similar information documenting any proposed changes to applicable development standards; Petitioners are encouraged to inquire with the Office of Planning about available public resources.

400.7 If the proposed new zone involves a reduction in any development standard or property right, an effected property owner in opposition shall be given an equal amount of time as the petitioner to present their opposition. The opposing property owner shall not be required to meet the same burden as that of significant community support.

401 PETITION REQUIREMENTS

401.1 A petition to create a new zone shall meet the requirements of Subtitle Z §§ 304 and 305.

CHAPTER 5 MAP AMENDMENTS

500 MAP AMENDMENTS

500.1 The Zoning Commission will evaluate and approve, disapprove, or modify a map amendment application or petition according to the standards of this section.

500.2 In a contested case, the applicant shall have the burden of proof to justify the granting of the application according to these standards.

500.3 In all cases, the Zoning Commission shall find that the amendment is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site.

501 APPLICATION/PETITION REQUIREMENTS

501.1 An application/petition for a map amendment shall meet the requirements of Subtitle Z § 304.

CHAPTER 6 DESIGN REVIEW

600 DESIGN REVIEW PURPOSE

600.1 The purpose of the design review process is to:

(a) Allow for special projects to be approved by the Zoning Commission after a public hearing and a finding of no adverse impact;

(b) Recognize that some areas of the District of Columbia warrant special attention due to particular or unique characteristics of an area or project;

(c) Permit some projects to voluntarily submit themselves for design review under this chapter in exchange for flexibility because the project is superior in design but does not need extra density;

(d) Promote high-quality, contextual design; and

(e) Provide for flexibility in building bulk control, design, and site placement without an increase in density or a map amendment.

600.2 The design review process is intended to be shorter and less intensive than the PUD process and allow less deviation from matter-of-right zone standards.

600.3 A comprehensive public review by the Zoning Commission of the specific development proposal is required in order to evaluate the design of the project in proportion to the design flexibility requested.

600.4 While providing for greater flexibility in planning and design than may be possible under matter-of-right zoning procedures, the design review process shall not be used to circumvent the intent and purposes of the Zoning Regulations, or to result in action that is inconsistent with the Comprehensive Plan.

600.5 A map amendment or an increase in density shall not be permitted as part of a design review application.

601 APPLICABILITY

601.1 In certain zones, some or all development may require design review. The zone reference table for the subtitle will reference any conditions under which design review is required.

601.2 Where not required, a property owner may apply voluntarily for design review development under this chapter.

601.3 The minimum area included within a proposed voluntary design review development application, including the area of public streets or alleys proposed to be closed, shall be as follows:

(a) A total of two (2) acres for a development to be located in any R, RF, or RA zone; and

(b) No minimum area required for a development in any other zone.

601.4 All the property included in a design review application shall be contiguous, except that the property may be separated only by a public street, alley, or right-of-way.

602 APPLICATION REQUIREMENTS

602.1 An application for a design review shall meet the requirements of Subtitle Z § 301.

603 DESIGN REVIEW FLEXIBILITY

603.1 As part of the design review process, the Zoning Commission may grant relief from the development standards for height, setbacks, lot occupancy, courts, and building transitions; as well as any specific design standards of a specific zone. The design review process shall not be used to vary other building development standards including FAR, Inclusionary Zoning, or green area ratio.

603.2 Except for height, the amount of relief is at the discretion of the Zoning Commission, but provided that the relief is required to enable the applicant to meet all of the standards of Subtitle X § 604. The Zoning Commission may grant no greater height than that permitted if the application were for a PUD.

603.3 An application for a special exception or variance that would otherwise require the approval of the Board of Zoning Adjustment may be heard simultaneously with a design review application, and shall be subject to all applicable special exception criteria and variance standards and the payment of all applicable fees.

604 DESIGN REVIEW STANDARDS

604.1 The Zoning Commission will evaluate and approve or disapprove a design review application according to the standards of this section and standards set forth in Subtitle K.

604.2 For non-voluntary design review, the application must also meet the requirements of the provisions that mandated Zoning Commission approval.

604.3 The applicant shall have the burden of proof to justify the granting of the application according to these standards.

604.4 The applicant shall not be relieved of the responsibility of proving the case by a preponderance of the evidence, even if no evidence or arguments are presented in opposition to the case.

604.5 The Zoning Commission shall find that the proposed design review development is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site.

604.6 The Zoning Commission shall find that the proposed design review development will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Subtitle X, Chapter 9.

604.7 The Zoning Commission shall review the urban design of the site and the building for the following criteria:

(a) Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including:

(1) Multiple pedestrian entrances for large developments;

(2) Direct driveway or garage access to the street is discouraged;

(3) Commercial ground floors contain active uses with clear, inviting windows;

(4) Blank facades are prevented or minimized; and

(5) Wide sidewalks are provided;

(b) Public gathering spaces and open spaces are encouraged, especially in the following situations:

(1) Where neighborhood open space is lacking;

(2) Near transit stations or hubs; and

(3) When they can enhance existing parks and the waterfront;

(c) New development respects the historic character of Washington's neighborhoods, including:

(1) Developments near the District's major boulevards and public spaces should reinforce the existing urban form;

(2) Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and

(3) Development should respect and protect key landscape vistas and axial views of landmarks and important places;

(d) Buildings strive for attractive and inspired façade design, including:

(1) Reinforce the pedestrian realm with elevated detailing and design of first (1st) and second (2nd) stories; and

(2) Incorporate contextual and quality building materials and fenestration;

(e) Sites are designed with sustainable landscaping; and

(f) Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including:

(1) Pedestrian pathways through developments increase mobility and link neighborhoods to transit;

(2) The development incorporates transit and bicycle facilities and amenities;

(3) Streets, easements, and open spaces are designed to be safe and pedestrian friendly;

(4) Large sites are integrated into the surrounding community through street and pedestrian connections; and

(5) Waterfront development contains high quality trail and shoreline design as well as ensuring access and view corridors to the waterfront.

604.8 The Zoning Commission shall find that the criteria of Subtitle X § 604.7 are met in a way that is superior to any matter-of-right development possible on the site.

CHAPTER 7 AIRSPACE DEVELOPMENT

700 INTRODUCTION TO AIRSPACE DEVELOPMENT

700.1 This chapter provides regulations for developing air rights above public streets or alleys ("airspace") in the District of Columbia.

700.2 Under § 5 of the District of Columbia Public Space Utilization Act, approved October 17, 1968 (D.C. Official Code §§ 10-1121.01 *et seq.*), the Zoning Commission shall, after public hearing and after securing the advice and recommendations of the National Capital Planning Commission, review and approve all air space development.

701 GENERAL RULES FOR AIRSPACE DEVELOPMENT

701.1 No development of airspace may occur without approval of the Zoning Commission.

701.2 The Zoning Commission shall determine the use to be permitted in the proposed airspace consistent with regulations applicable to the abutting privately owned property, including limitations and requirements respecting the height of any structure to be erected in such airspace, off-street parking and development standards applicable to such structure, and easements of light, air, and access.

701.3 Airspace cases may be processed as a part of a design review, PUD, or project-specific rezoning application and shall be subject to the evaluation criteria and follow the procedures of the relevant chapter, except as provided in this section.

701.4 The Zoning Commission may impose any conditions or restrictions on airspace development that it deems necessary to ensure:

(a) Compatibility with surrounding private property;

(b) The accessibility of the public to traverse as appropriate the public space;

(c) A high quality design of any building, landscape or public realm;

(d) Appropriate treatment and protection of viewsheds; and

(e) No undue adverse impacts on the surrounding area.

702 APPLICATION REQUIREMENTS

702.1 An application for an airspace development shall meet the requirements of Subtitle Z § 303.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 8 WATER TOWER ON THE EAST CAMPUS OF SAINT ELIZABETHS

800 PROCEDURES FOR A WATER TOWER ON THE EAST CAMPU OF SAINT ELIZABETHS

800.1 Notwithstanding any other provision of this title, a water tower or elevated water tank (Water Tower) owned and operated by the District of Columbia Water and Sewer Authority may be established on unzoned property owned by the District of Columbia and located on the East Campus of Saint Elizabeths Hospital.

800.2 No building permit to construct a Water Tower in excess of ninety feet (90 ft.) in height may be issued unless the Zoning Commission finds that said tower, as designed, meets the standards of Subtitle X, Chapter 9 and is not inconsistent with the Comprehensive Plan, small area plan(s), and other adopted planning studies that pertain to the site.

800.3 An application pursuant to Subtitle X § 800.2 shall include such plans and illustrations necessary to adequately represent the final proposed appearance of the tower, including its materials, final elevation, and location on the East Campus. The application shall also identify how the proposed design meets the standard for approval set forth in Subtitle X § 800.2.

800.4 An application shall be included as a "Final Action" item for a Zoning Commission meeting scheduled after the completion of the thirty- (30) day review period allowed the affected Advisory Neighborhood Commission(s). The notice to the affected Advisory Neighborhood Commission(s) shall include the date of the final action and a tentative public hearing date.

800.5 The only motion that can be made at that time is for approval of the application in accordance with Subtitle Z § 604 and without the need for a public hearing.

800.6 If no motion is made, or if the motion fails, the matter shall be moved to the "Hearing Actions" portion of the agenda, at which point the Commission may take any of the actions authorized by Subtitle Z §§ 400.12 through 400.15.

800.7 The Office of Planning may submit a report as to whether the Zoning Commission should approve the application. Any such report shall be filed no later than ten (10) days prior to the date of the public meeting at which the final action item will be considered.

800.8 A request to modify an approved design shall be subject to the same review criteria and approval process as set forth in this section for the original application.

CHAPTER 9 SPECIAL EXCEPTIONS

900 GENERAL PROVISIONS

900.1 Except for those special exceptions heard by the Zoning Commission pursuant to Title 11 DCMR, special exception cases shall be heard by the Board of Zoning Adjustment and follow the procedures of Subtitle Y, Chapter 4.

900.2 The Board of Zoning Adjustment is authorized to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the requested special exception meets the standards of Subtitle X § 901 and any specific conditions specified in this subtitle.

900.3 In the case of a use that was originally permitted and lawfully established as a matter-of-right and for which the Zoning Regulations now require special exception approval from the Board of Zoning Adjustment, any extension or enlargement of that use shall require special exception approval from the Board of Zoning Adjustment.

900.4 In determining whether to approve any extension or enlargement under Subtitle X § 900.3, the Board of Zoning Adjustment shall apply the standards and criteria of the Zoning Regulations to the entire use, rather than to just the proposed extension or enlargement.

901 SPECIAL EXCEPTION REVIEW STANDARDS

901.1 The Board of Zoning Adjustment will evaluate and either approve or deny a special exception application according to the standards of this section.

901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

(a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;

(b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and

(c) Will meet such special conditions as may be specified in this title.

901.3 The applicant for a special exception shall have the full burden to prove no undue adverse impact and shall demonstrate such through evidence in the public record. If no evidence is presented in opposition to the case, the applicant shall not be relieved of this responsibility.

901.4 The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, size, signs, screening, landscaping, lighting, building materials, or other requirements it deems necessary to protect adjacent or nearby property, or to ensure compliance with the intent of the Zoning Regulations.

901.5 The Board of Zoning Adjustment may impose a term limit on a special exception use when it determines that a subsequent evaluation of the actual impact of the use on neighboring properties is appropriate, but shall consider the reasonable impacts and expectations of the applicant in doing so.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

902 APPLICATION REQUIREMENTS

902.1 An application for a special exception shall meet the requirements of Subtitle Y § 300.

CHAPTER 10 VARIANCES

1000 GENERAL PROVISIONS

1000.1 With respect to variances, the Board of Zoning Adjustment has the power under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3) (formerly codified at D.C. Official Code § 5-424(g)(3) (2012 Repl.)), "[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."

1000.2 Only the owner of the property for which a variance is sought, or an agent authorized by the property owner, may apply for variance relief.

1000.3 Except for those variances heard by the Zoning Commission as part of any discretionary review process, variance cases are heard by the Board of Zoning Adjustment and follow the procedures of Subtitle Y, Chapter 4.

1001 VARIANCE TYPES

1001.1 Variances are classified as area variances or use variances.

1001.2 An area variance is a request to deviate from an area requirement applicable to the zone district in which the property is located.

1001.3 Examples of area variances are requests to deviate from:

(a) Requirements that affect the size, location, and placement of buildings and other structures such as height and FAR;

(b) Minimum parking or loading requirements to an extent greater than what may be permitted by special exception;

(c) Limitations on the extent to which the gross floor area of a building may be occupied by a matter of right non-residential use;

(d) Limitations on the alteration or conversion of certain structures on alley lots as stated in Subtitle D § 1610; Subtitle E § 1104; Subtitle F § 903; and Subtitle G § 1503;

(e) The prohibition against certain enlargements and additions to nonconforming structures as stated at Subtitle C § 302.2; and

(f) Preconditions to the establishment of a matter-of-right use including, but not limited to, the minimum land area requirement of Subtitle E § 600.3 applicable to the conversion of a building to an apartment house as permitted by Subtitle E § 600.1; provided, that the waiver would not cause the proposed use to meet the definition of a more intense use.

1001.4 A use variance is a request to permit:

(a) A use that is not permitted matter of right or special exception in the zone district where the property is located;

(b) A use that is expressly prohibited in the zone district where the property is located; or

(c) An expansion of a nonconforming use prohibited by Subtitle C § 304.1.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

1002 VARIANCE REVIEW STANDARDS

1002.1 The standard for granting a variance, as stated in Subtitle X § 1000.1 differs with respect to use and area variances as follows:

(a) An applicant for an area variance must prove that, as a result of the attributes of a specific piece of property described in Subtitle X § 1000.1, the strict application of a zoning regulation would result in peculiar and exceptional practical difficulties to the owner of property; and

(b) An applicant for a use variance must prove that, as a result of the attributes of a specific piece of property described in Subtitle X § 1000.1, the strict application of a zoning regulation would result in exceptional and undue hardship upon the owner of the property.

1002.2 The applicant for a variance shall have the burden of proof to justify the granting of the application according to these standards and shall demonstrate such through evidence in the public record. If no evidence is presented in opposition to the case, the applicant shall not be relieved of this responsibility.

1003 APPLICATION REQUIREMENTS

An application for a variance shall meet the requirements of Subtitle Y § 300.

CHAPTER 11 ZONING APPEALS

1100 INTRODUCTION TO THE ZONING APPEALS PROCESS

1100.1 This chapter provides regulations and instructions for the zoning appeals process.

1100.2 The Board of Zoning Adjustment shall hear and decide zoning appeals where it is alleged by the appellant that there is an error in any order, requirement, decision, determination, or refusal made by the Zoning Administrator or any administrative officer or body, including the Mayor, in the administration or enforcement of the Zoning Regulations.

1100.3 The Board of Zoning Adjustment has no jurisdiction to hear and decide any appeal or portion of any appeal where the order, requirement, decision, determination, or refusal was not based in whole or in part upon any zoning regulation or map.

1100.4 Zoning appeals cases are heard by the Board of Zoning Adjustment and follow the procedures of Subtitle Y, Chapter 5.

1100.5 The zoning appeals governed by this chapter do not involve appeals of orders issued by Administrative Law Judges involving infractions of the Height Act or the Zoning Regulations, which are governed by Subtitle X, Chapter 12.

1101 ZONING APPEAL PROCEDURES

1101.1 In exercising its zoning appeal powers, the Board of Zoning Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, determination, or refusal appealed from, or may make such order as may be necessary to carry out its decision or authorization, and to that end shall have all the powers of the officer or body from whom the appeal is taken.

1101.2 The appellant shall have the burden of proof to justify the granting of the appeal. If no evidence is presented in opposition to the case, the appellant shall not be relieved of this responsibility.

1102 APPLICATION REQUIREMENTS

1102.1 A zoning appeal shall meet the requirements of Subtitle Y § 302.

CHAPTER 12 CIVIL INFRACTION APPEALS

1200 INTRODUCTION TO THE CIVIL INFRACTION APPEALS PROCESS

1200.1 This chapter provides regulations for the civil infraction appeals process.

1200.2 The Board of Zoning Adjustment shall entertain and decide civil infraction appeals timely filed by persons aggrieved by orders issued by Administrative Law Judges (ALJ) pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6–42; D.C. Official Code, §§ 6–2701 *et seq.*) (Civil Infractions Act) involving infractions of the Height Act or of the Zoning Regulations.

1200.3 Civil infraction cases are decided by the Board of Zoning Adjustment and follow the applicable procedures of Subtitle Y, Chapter 5.

1201 CIVIL INFRACTION APPEAL PROCEDURES

1201.1 In exercising its civil infraction appeal powers the Board of Zoning Adjustment shall, in conformity with the Civil Infractions Act, make a determination of each appeal on the basis of the record established before the ALJ.

1201.2 The Board of Zoning Adjustment shall set aside any ALJ's order that is without observance of procedure required by law or regulations, including any applicable procedure required by Titles I and II of the Civil Infractions Act, D.C. Official Code §§ 2-1801.01 to 2-1802.05, or any administrative law judge or attorney examiner order that is unsupported by a preponderance of the evidence on the record.

1201.3 The Board of Zoning Adjustment shall apply the rule of harmless error, and shall have the power to affirm, reverse, or modify the order of the ALJ.

1201.4 The Board of Zoning Adjustment may remand a case for further proceedings before the ALJ.

1201.5 The Board of Zoning Adjustment shall not modify a monetary sanction imposed by an ALJ if that sanction is within the limits established by law or regulation.

1202 APPLICATION REQUIREMENTS

1202.1 A civil infraction appeal shall meet the requirements of Subtitle Y § 303.

CHAPTER 13 TEXT AMENDMENTS

1300 TEXT AMENDMENTS

1300.1 The Zoning Commission will evaluate and approve, disapprove, or modify a text amendment petition according to the standards of this section.

1300.2 The Zoning Commission shall find that the petition is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject text.

1301 PETITION REQUIREMENTS

1301.1 A petition for a text amendment shall meet the requirements of Subtitle Z § 305.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

TITLE 11 – ZONING

SUBTITLE Y BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE

TITLE 11 – ZONING Y-1

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CHAPTER 1 ADMINISTRATION

100 BOARD OF ZONING ADJUSTMENT JURISDICTION; AUTHORITY; POWERS

100.1 This subtitle supplements procedures set out in the Zoning Act of 1938; the Civil Infractions Act; the Foreign Missions Act; the Zoning Regulations of the District of Columbia, Title 11 DCMR; and the D.C. Administrative Procedure Act, D.C. Official Code §§ 2-501 to 2-511.

100.2 This subtitle shall be effective on the effective date of this title, and applicable in its entirety to applications or appeals filed after that date with the Board of Zoning Adjustment for the District of Columbia, and to applications or appeals filed as of that date.

100.3 The Board, pursuant to § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799, as amended; D.C. Official Code §§ 6-641.07(f) and (g)(2)-(3) (2012 Repl.)), shall have original jurisdiction to grant variances under Subtitle X, Chapter 10 and special exceptions under Subtitle X, Chapter 9, and to exercise all other powers authorized by the Zoning Act.

100.4 The Board, pursuant to § 8 of the Zoning Act, D.C. Official Code §§ 6-641.07(f) and (g)(1), shall also hear and decide zoning appeals where it is alleged by the appellant that there is error in any order, requirement, decision, determination, or refusal made by any administrative officer or body, including the Mayor, in the administration or enforcement of the Zoning Regulations, Title 11 DCMR.

100.5 The Board, pursuant to § 301 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42, as amended; D.C. Official Code § 2-1803.01 (2012 Repl.)) (Civil Infractions Act), shall entertain and decide appeals (civil infraction appeals) timely filed by persons aggrieved by orders issued by Administrative Law Judges pursuant to the Civil Infractions Act, or by the Mayor, involving infractions of subchapter 1 of Title 6 of the District of Columbia Official Code, 2012 Repl., pertaining to the height of buildings, or of the Zoning Regulations.

100.6 The Board, pursuant to § 206 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 282, 286; D.C. Official Code § 6-1306 (2012 Repl.)), shall have the authority to make determinations regarding the location, replacement, or expansion of chanceries in the R, RF, RA, MU-1, MU-2, MU-15, MU-16, and M-23 zones in the District of Columbia, and to hear and decide appeals of administrative decisions relating to a chancery based in whole or in part upon the Zoning Regulations and Zoning Map, subject to the procedures and criteria established in § 206 of the Foreign Missions Act, D.C. Official Code § 6-1306, and in the pertinent provisions of the Zoning Regulations, including Subtitle X, Chapter 2.

101 GENERAL PROVISIONS

101.1 In any conflict between this subtitle and any other provisions of this title, the other provisions of this title shall govern.

101.2 In any conflict within this subtitle between general and specific provisions, the specific provisions shall govern.

101.3 In any conflict between this subtitle and the D.C. Administrative Procedure Act, the Act shall govern.

101.4 In any conflict between this subtitle and the Zoning Act, the Act shall govern.

101.5 Legal advice from the Office of the Attorney General may be requested or received at any time.

101.6 Informal requests for advice or moot questions shall not be considered by the Board.

101.7 When used in this subtitle the following terms shall have the meanings ascribed:

(a) ANC: Advisory Neighborhood Commission;

(b) Board: Board of Zoning Adjustment; and

(c) Director: Director of the Office of Zoning or his/her designee.

101.8 In this subtitle the term "affected Advisory Neighborhood Commission" or "affected ANC" refers to the ANC within which the property that is the subject of an application is located; except if an area represented by another ANC is directly across the street from property that is the subject of an application the term shall also refer to that ANC.

101.9 Except for Subtitle Y §§ 100 through 105, 604.6, 700.3, and 1602.5 the Board may, for good cause shown, waive any of the provisions of this subtitle if, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

102 ORGANIZATION

102.1 The Board shall consist of five (5) members and shall have the duties and powers set forth in this subtitle.

102.2 The Board, pursuant to D.C. Official Code § 6-641.07, shall consist of three (3) Mayoral appointees, one (1) member of the National Capital Planning Commission (or staff designee), and one (1) member of the Zoning Commission (or staff designee).

102.3 Three (3) members of the Board shall constitute a quorum. A quorum is necessary to conduct a hearing or meeting, but a lesser number may publicly announce a postponement or adjournment. If necessary, the Director may announce a postponement.

102.4 The Board shall elect its Chairperson and Vice-Chairperson at its first meeting held in February of each calendar year, unless a vacancy occurs at some other point during the calendar year, at which point the Board shall hold elections in a timely manner.

102.5 The Chairperson shall preside at all meetings and hearings of the Board. In the event of the absence or disability of the Chairperson, the Vice-Chairperson shall preside.

102.6 The Chairperson of the Board shall be selected from one (1) of the three (3) Mayoral appointees to the Board.

102.7 A Board member may vote or cast an absentee vote at a meeting only if the Board member attended all of the hearings on the application or appeal or reviewed the complete record. Nothing in this subsection shall be construed to require a Board member to read the transcript in order to vote on a subsequent application to extend or modify the order granting the application.

102.8 While a majority of the Board members present at a meeting or hearing may take a procedural action, any final action on an application or appeal requires the concurrence of at least three (3) of the five (5) Board members.

102.9 No Board member shall vote on any post-hearing motion unless the Board member participated in, and voted on, the original decision, or the Board member reviewed the complete record.

103 MEETINGS AND HEARINGS

103.1 On or about the first (1st) day of the calendar year, the Director shall publish in the *D.C. Register* a twelve-month (12-month) calendar or schedule of meeting dates, and continually update the Office of Zoning electronic calendar to reflect the meeting dates.

103.2 The meetings and hearings of the Board shall be open to the public; provided that, for the reasons cited in § 405(b) of the D.C. Administrative Procedures Act, as amended by the Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-575(b)), including receiving advice from the Office of Attorney General on legal matters and training, the Board may hold a closed meeting, but only after the Board meets in public session and votes in favor of entering into or scheduling a closed meeting.

103.3 All records of the Board shall be filed with the Office of Zoning and shall be open to public inspection.

103.4 Subject to the direction of the Board and its Chairperson, the Director shall perform the following duties:

(a) Conduct all correspondence of the Board, send out all notices required by this title, attend all meetings and hearings of the Board, compile all required records, and maintain the necessary files and indexes;

(b) Enter in the Board case record the number assigned to each application or appeal, the name of the applicant or appellant, a short description of the premises (by street number or otherwise), the nature of the application or appeal, and the final disposition of the proceeding;

(c) Enter in the Board case record all continuances, postponements, dates of sending notices, and other steps taken or acts done by the Board or its officers on behalf of the Board;

(d) Issue and revise application and appeal forms to ensure presentation of adequate information required for the understanding and processing of applications and appeals; and

(e) Certify the zoning of a property upon the request of the public subject to the payment of the fee set forth in Subtitle Z § 1604.

103.5 The proposed public agenda for each meeting shall be posted on the Office of Zoning website and available to the public at least four (4) days prior to each meeting.

103.6 Copies of the agenda shall be available to the public at the meetings or hearings.

103.7 Nothing in this section shall preclude the Board from amending the agenda at a meeting or hearing.

103.8 A meeting of the Board shall be held in accordance with a schedule to be established by the Board pursuant to Subtitle Y § 103.1, and additional meetings may be scheduled or cancelled, as needed. Meetings may be called by the presiding officer or by three (3) Board members.

103.9 The Board shall schedule hearings for the purpose of receiving evidence and testimony on specific applications and appeals advertised in advance.

103.10 Meetings and hearings shall be held at such time and place as the Board or the Office of Zoning may designate.

103.11 When postponing or continuing a contested case, the Board shall make reasonable efforts to schedule the public hearing within thirty (30) days.

103.12 If the time and place of resumption is publicly announced when a postponement, continuance, or adjournment is ordered, no further notice shall be required. For

the purposes of this section, the form of the public announcement may be a sign placed at the entrance to the Board's hearing room.

104 TRANSCRIPTS OF PUBLIC MEETINGS AND HEARINGS

104.1 The transcripts of Board public meetings and hearings are a matter of public record and shall be available through the Office of Zoning.

104.2 The public meetings and hearings shall be reported under the supervision of the presiding officer, by transcription or by other means, by an official reporter who may be designated by the Director or who may be an employee of the Office of Zoning.

104.3 The transcript prepared by the reporter shall be the sole official transcript of public meetings and hearings.

104.4 Copies of the transcript shall be made available by the Office of Zoning fourteen (14) days after the public meeting or hearing.

104.5 A motion to correct a transcript may be made only when the alleged error is substantive.

104.6 A motion to correct a transcript shall be filed with the Board within ten (10) days after the transcript has been made available in the Office of Zoning.

104.7 Copies of the motion to correct a transcript shall be served simultaneously on all parties or their authorized representatives.

104.8 The Board shall rule on a motion to correct a transcript at a public meeting or hearing.

104.9 Objections to the motion to correct a transcript shall be filed with the Board within five (5) days of service upon the parties.

104.10 The Board, on its own motion at a public meeting or hearing, may order changes to a transcript at any time for any reason.

104.11 If a motion to correct a transcript is granted, the corrected transcript shall be made available by the Office of Zoning fourteen (14) days after the Board grants the motion.

105 RULES OF ETHICS

105.1 The following Rules of Ethics are intended to be complementary to, and not in place of, the ethical requirements applicable to all District officials, as those requirements are stated in the Ethics Manual for the District of Columbia and the District and federal laws it references. To the extent there is any conflict between

the rules that follow and requirements described in the Ethics Manual, the more stringent requirement shall govern.

105.2 Members of the Board shall at all times maintain a high level of ethical conduct in connection with the performance of their official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the government of the District of Columbia.

105.3 Members of the Board shall avoid all actions which might result in, or create the appearance of, the following:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of government.

105.4 Members of the Board shall not ask for or accept, either directly or through someone else, any gift, gratuity, favor, loan, entertainment, or anything of value from a person who has or is seeking a contract with the District of Columbia; is regulated by the District; or has any interest that may be affected by the Board member's performance of official duties.

105.5 In any proceedings before the Board, all members of the Board shall be prohibited from receiving or participating in any *ex parte* communication relevant to the merits of the proceeding.

105.6 The prohibition in Subtitle Y § 105.5 shall begin to apply upon the referral of any application or appeal pursuant to Subtitle Y §§ 400.4 and 500.4, and shall not terminate until the final disposition of the case.

105.7 The prohibition in Subtitle Y § 105.5 shall not extend to communication between the Board and the Office of Zoning concerning matters of record.

105.8 A member of the Board shall disqualify himself or herself in a proceeding before the Board in which the Board member's impartiality might reasonably be questioned, including but not limited to instances where:

(a) The member of the Board has a personal bias or prejudice concerning a party or a party's representative, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) The member of the Board served as a representative in the matter in controversy, or has been a material witness concerning it;

(c) The member of the Board knows, or reasonably should have known, that he or she, individually or as a fiduciary, or the Board member's spouse, domestic partner, parent or child wherever residing, or any other member of the Board member's family residing in the Board member's household, has an economic interest in the matter in controversy or in a party to the proceeding or has any other more than *de minimus* interest that could be substantially affected by the proceeding; or

(d) The member of the Board or their spouse, domestic partner, parent, or child wherever residing, or any other member of the Board member's family residing in the Board member's household:

(1) Is a party to the proceeding, or an officer, director, or trustee of a party;

(2) Is acting as a lawyer or otherwise representing a party in the proceeding; or

(3) Is known to have a more than *de minimus* interest that could be substantially affected by the proceeding.

105.9 A member of the Board subject to disqualification by the terms of Subtitle Y § 105.8 may disclose on the record the basis of the member's disqualification and may ask the parties and their representatives to consider whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and their representatives all agree that the Board member should not be disqualified, and the Board member is then willing to participate, the Board member may participate in the proceeding.

105.10 No member of the Board shall represent any person before the Board or Zoning Commission other than himself or herself while a member of the Board.

105.11 No former member of the Board shall represent any person before the Board or Zoning Commission other than himself or herself for a period of one (1) year after the date that the member's service on the Board terminates.

105.12 For a period of two (2) years after the date on which the member's service on the Board terminates, no former member of the Board shall assist in representing, including aiding, counseling, advising, and consulting, another person in a particular matter involving a specific party before the Board or Zoning

Commission other than himself or herself, if he or she participated personally and substantially in the particular matter while a member of the Board.

105.13 No former member of the Board shall represent any person other than himself or herself in a particular matter for which the Board member had a substantial involvement while a member of the Board.

CHAPTER 2 PUBLIC PARTICIPATION

200 APPEARANCE AND REPRESENTATION

200.1 In a proceeding before the Board, any person or party may appear on that person or party's own behalf.

200.2 Any person or party may be represented by any other person duly authorized in writing to do so.

200.3 The authorization shall state specifically that the authorization includes the power of the agent or representative to bind the person in the case before the Board.

200.4 The applicant shall submit a letter of authorization to the Office of Zoning at least fourteen (14) days prior to the public hearing.

201 APPLICATIONS AND APPEALS

201.1 Any variance or special exception proceeding before the Board shall be initiated by the filing of an application with the Board on the form and in the manner that the Director may prescribe.

201.2 A variance or special exception case shall be considered as a contested case proceeding, as defined by D.C. Official Code § 2-502(8). Public hearings on contested cases shall be processed and conducted according to the provisions of the D.C. Administrative Procedure Act.

201.3 Any application for a chancery or foreign mission subject to the Foreign Missions Act shall be initiated by the filing of an application with the Board on the form and in the manner that the Director may prescribe; such case shall be considered as a rulemaking proceeding.

201.4 Any appeal case proceeding before the Board shall be initiated by the filing of an appeal with the Board on the form and in the manner that the Director may prescribe.

202 DECORUM AND GOOD ORDER

202.1 This section applies to all proceedings before the Board.

202.2 No person shall utter loud, threatening, or abusive language, or engage in any disorderly or disruptive conduct, including the display of any signs or objects, that has the effect of (as determined by the presiding officer) impeding any meeting, hearing, or other proceeding or the orderly conduct of official business of any member, officer, employee, or agent of the Board or the Office of Zoning; or enter or remain in, during the course of any meeting, hearing, or other proceeding of the Board, any area set aside for use by persons other than the general public.

203 EVIDENCE

203.1 The provisions of this section apply as follows:

(a) This section applies in its entirety to zoning appeals and variance and special exception applications;

(b) Except for Subtitle Y § 203.2, the provisions of this section shall not apply to civil infraction appeals; provided, however, that if a party in a civil infraction appeal uses a demonstrative aid during oral argument, the demonstrative aid shall be filed in the record in accordance with the requirements of Subtitle Y §§ 203.3 through 203.6; and

(c) The provisions of Subtitle Y § 203.3 through 203.6 shall apply in a chancery proceeding.

203.2 Exhibits may be offered in evidence at the hearing.

203.3 Any exhibit that exceeds a size suitable for inclusion in the record shall be reduced to a size not to exceed tabloid size of eleven inches (11 in.) by seventeen inches (17 in.).

203.4 If models are used, images of the models not exceeding tabloid size of eleven inches (11 in.) by seventeen inches (17 in.) shall be submitted into the record.

203.5 If PowerPoint presentations, computer simulations, slides, or similar media are used, a paper copy of the exhibit shall be filed with the Board.

203.6 If a video is used, six (6) copies of the video on DVD shall be filed with the Board.

203.7 In special exception and variance applications, and zoning and civil infraction appeals, the Zoning Act of 1938, as amended, the Zoning Regulations, and the official Zoning Map, shall be a part of the record of every proceeding before the Board, and it shall not be necessary for any party or person formally to move their introduction into evidence.

203.8 If a map, plan, or other document is readily available to the general public, in lieu of filing a copy of the document, the applicant or appellant need only provide a complete citation to the source of the document and indicate where the public may view the document.

203.9 An individual offered as an expert witness shall provide written evidence to the Board of expertise including but not limited to educational attainment, licensing, accreditation, and examples of relevant or comparable work and employment.

203.10 An expert witness shall be present at the hearing and be available for questions from the Board and cross examination by any other party.

203.11 The applicant, appellant, public agency representatives, additional parties, organization representatives, and individuals may appear as witnesses and offer evidence at a hearing.

203.12 In a contested case, witnesses may be examined or cross-examined by the Board, the applicant, or any party so determined by the Board under this subtitle.

203.13 In a chancery case under Subtitle X, Chapter 2, only the Board may examine witnesses. A public agency representative may pose a question to a witness through the presiding officer.

204 COMPUTATION OF TIME

204.1 In computing any period of time, days shall refer to calendar days, unless otherwise specified.

204.2 In computing any period of time specified in this title, the day of the act, event, or default after which the designated period of time begins to run shall not be included.

204.3 The last day of the period computed as provided in Subtitle Y § 204.2 shall be included unless it is a Saturday, Sunday, or official District of Columbia holiday, in which event the period shall run until the end of the next day that is neither a Saturday, Sunday, nor official District of Columbia holiday.

204.4 Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper, and the paper or notice is served upon the party by mail, three (3) days shall be added to the prescribed period.

204.5 Except as otherwise provided by law, whenever an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, for good cause, be extended or reduced by the Board with notice to all parties or announcement on the record.

205 SERVICE OF DOCUMENTS; METHODS OF SERVICE; PROOF OF SERVICE

205.1 Any document required to be served upon a party shall be served upon that party or upon the representative designated by that party or by law to receive service of documents. When a party has appeared through a representative, service may be made upon the representative of record.

205.2 Where there are numerous parties to a proceeding, the Board may designate representative parties or make other special provisions regarding the service of documents.

205.3 Service may be made and shall be considered complete as indicated in paragraphs (a) through (f) of this subsection, or as otherwise authorized by law:

(a) By personal delivery to the party's address of record by either handing the document to the person to be served, handing it to a responsible individual of suitable age, or leaving it in a conspicuous place;

(b) By express mail, when properly addressed and with charges prepaid;

(c) By first-class mail, when deposited in the United States mail, properly stamped and addressed;

(d) By facsimile, when transmitted with the proper facsimile number corresponding to the intended recipient;

(e) By electronic mail (e-mail), when transmitted with the proper e-mail address; or

(f) In any specific manner prescribed by the Board in a proceeding.

205.4 Each document required to be served upon a party and filed by a party, whether in hard copy, by e-mail, or electronically, must include a signed statement that the document was served on the parties. Such a statement is known as a "certificate of service." The certificate of service shall identify the individual serving the paper, the parties served and their addresses, the way it was served, and the date served.

205.5 A certificate of service may be represented by:

(a) Written acknowledgement of the party served or that party's representative of record; or

(b) The written statement of the person making the service.

206 SUBMITTING COMMENTS OR FILING DOCUMENTS ELECTRONICALLY OR BY E-MAIL

206.1 This section includes provisions for the public to file documents electronically through the Interactive Zoning Information System (IZIS) and by e-mail with the Office of Zoning. It also permits the Office of Zoning to serve orders and notices by e-mail.

206.2 The submission of any comments electronically following the procedures set forth in this section constitutes filing for all purposes under these rules.

206.3 Comments may be submitted electronically through IZIS or by e-mail.

206.4 All comments submitted electronically through IZIS shall:

(a) Contain the name, mailing address, telephone number, and e-mail address of the person filing it; and

(b) Describe the nature of the documents (for example, "Comments in Support," "Comments in Opposition," or "General Comments").

206.5 All comments submitted by e-mail shall:

(a) Contain the name, mailing address, telephone number, and e-mail address of the person filing it;

(b) Describe the nature of the documents (for example, "Comments in Support," "Comments in Opposition," or "General Comments");

(c) Include the case number and case name in the subject line of the e-mail; and

(d) Be sent to bzasubmissions@dc.gov.

206.6 The filing of any documents electronically following the procedures set forth in this section constitutes filing for all purposes under these rules.

206.7 All documents to be filed electronically through IZIS or by e-mail shall be in portable document format (PDF).

206.8 All documents filed electronically through IZIS shall:

(a) Contain the name, mailing address, telephone number, and e-mail address of the person filing it;

(b) Contain the case number assigned by the Office of Zoning;

(c) Describe the nature of the documents (for example, "Letter in Support," "Letter in Opposition", or "Request for Party Status"); and

(d) Not exceed the maximum allowable size of eight (8) megabytes.

206.9 All documents filed by e-mail shall:

(a) Include the name, mailing address, telephone number, and e-mail address of the person filing it;

(b) Describe the nature of the documents (for example, "Letter in Support," "Letter in Opposition", or "Request for Party Status");

(c) Include the signature of the originator;

(d) Contain no more than ten (10) pages;

(e) Include the case number and case name in the subject line of the e-mail; and

(f) Be sent to bzasubmissions@dc.gov.

206.10 All filings submitted through IZIS on or before 11:59 p.m. shall be recorded as being received on the same day.

206.11 All e-mail filings sent between 12:01 a.m. and 5:00 p.m. on any Office of Zoning business day shall be recorded on the date it was received.

206.12 The filing date for an e-mail filing received between 5:01 p.m. and 12:00 a.m. shall be recorded on the next business day.

206.13 The date and time recorded in the correct Office of Zoning electronic mailbox at bzasubmissions@dc.gov, shall be conclusive proof of when it was received.

206.14 Parties shall be responsible for monitoring their e-mail accounts and for opening e-mails.

206.15 The Office of Zoning shall serve orders and notices by e-mail to any party who provides an e-mail address. The party is responsible for ensuring that the Office of Zoning has an accurate, up-to-date e-mail address.

206.16 Any notice required by D.C. Official Code § 1-309.10(c)(4) to be provided to affected ANCs, the Commissioner representing the affected single member district, and the Office of ANCs ("notice recipients") may be provided by electronic or first-class mail; provided, that the notice shall be by first-class mail unless a notice recipient agrees in writing to receive future notifications through e-mail.

206.17 A notice of an application shall constitute the notice required by D.C. Official Code § 1-309.10(b) and starts the time period for the affected ANC to review the application and submit its written report pursuant to D.C. Official Code § 1-309.10(d).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 3 APPLICATION REQUIREMENTS

300 APPLICATION REQUIREMENTS: SPECIAL EXCEPTION AND VARIANCE

300.1 Each application seeking approval of a special exception or variance pursuant to Subtitle X, Chapter 9 shall meet the requirements of this section before it will be accepted by the Office of Zoning for processing.

300.2 No special exception or variance application shall be processed until the application is complete and all required fees are paid in accordance with the applicable fee schedule prescribed in Subtitle Y, Chapter 16.

300.3 The application shall be filed on a form as may be designated by the Director.

300.4 The owner of property for which zoning relief is sought, or an authorized representative, shall file an application with the Office of Zoning.

300.5 If the owner will be represented by a third party, including the lessor or contract purchaser of the property, a letter of authorization signed by the owner authorizing the representative to act on the owner's behalf with respect to the application, and a certification signed by the representative that they have read the Board's Rules of Practice and Procedure (Subtitle Y) and are able to competently represent the owner shall be submitted into the record. The Board may at any time require additional evidence demonstrating the authority of the representative to act for the owner.

300.6 An application shall contain either:

(a) A memorandum from the Zoning Administrator stating that a building permit application has been filed and certifying the required zoning relief; or

(b) A certification by an architect or attorney certifying the required zoning relief and that:

(1) The architect or attorney is duly licensed to practice in the District of Columbia;

(2) The architect or attorney is currently in good standing and otherwise entitled to practice in the District of Columbia; and

(3) The relief requested is required in order for the proposed structure to be erected or the proposed use to be established.

300.7 Each application shall be made in an appropriate manner provided by the Director.

300.8 In addition to the memorandum or certification required by Subtitle Y § 300.6 and the information required by Subtitle Y § 300.5 relating to appearance and representation, the applicant shall furnish two (2) paper copies of all information required by the application form at the time of filing the application, including:

(a) A completed application form;

(b) A plat, drawn to scale and certified by a survey engineer licensed in the District of Columbia or by the D.C. Office of the Surveyor, showing the boundaries and dimensions of the existing and proposed structures and accessory buildings and structures on the specific piece of property, if necessary;

(c) Architectural plans and elevations in sufficient detail to clearly illustrate any proposed structure to be erected or altered, landscaping and screening, and building materials, and where applicable, parking and loading plans;

(d) A detailed statement of existing and intended use of the structure, or part thereof;

(e) A detailed statement of how the application meets each element of the review standards for special exceptions specified in Subtitle X § 901, or for variances specified in Subtitle X § 1002;

(f) Three (3) or more color images, not to exceed letter-size (8½ in. x 11 in.), showing the pertinent features of the structure, and property involved (front, rear, and sides, if possible and applicable);

(g) The name and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property and two (2) copies of self-stick labels printed with their names and addresses;

(h) The name and address of each person having a lease with the owner for all or part of any structure located on the property involved in the application;

(i) A copy of the certificate of occupancy or other documentation showing the current authorized use(s) on the property. In cases where a change in one (1) nonconforming use to another nonconforming use is requested, a copy of the certificates of occupancy or other documentation showing the past authorized uses;

(j) A copy of the resume of any expert witness who will be testifying in the case;

(k) A written summary of the testimony of all witnesses;

(l) A statement of the efforts that have been made to apprise the affected ANC and other individuals and community groups concerning the application, if any; and

(m) If a map, plan, or other document is readily available to the general public, in lieu of filing a copy of the document, the applicant may provide a complete citation to the source of the document and indicate where the public may view the document.

300.9 An application for a school plan shall also include a plan for the school showing the location, height, and bulk, where appropriate, of all present and proposed improvements, including, but not limited to, the following:

(a) Buildings and parking and loading facilities;

(b) Screening, signs, streets, and public utility facilities;

(c) Athletic and other recreational facilities;

(d) A description of all activities conducted or to be conducted on the school, and of the capacity of all present and proposed school development; and

(e) Any other relevant information.

300.10 Except as provided in Subtitle Y §§ 300.14 and 300.15 with respect to traffic and transportation reports, all statements, information, briefs, reports (including reports and statements of experts and other witnesses), plans, photographs, or other exhibits that the applicant may wish to offer in evidence at the public hearing shall be filed at the time of filing the application.

300.11 No application shall be accepted unless accompanied by a certificate of service demonstrating that a copy of the application and all accompanying documents have been served upon:

(a) The Office of Planning; and

(b) The affected ANC.

300.12 Nothing in this subsection is intended to affect the discretion of the Director to reject an application for failure to comply with the provisions of this subsection or this title.

300.13 If the application includes a report by a transportation consultant or expert, the applicant shall provide a copy of the report to the District Department of Transportation on the same day of filing with the Office of Zoning.

300.14 No later than thirty (30) days before the date of the public hearing on the application, the applicant shall file with the Board any traffic or transportation

reports to be submitted in support of the application. All such reports shall include the resume of the expert who prepared the report. At or before the time of filing the traffic or transportation report with the Board, the applicant shall serve a copy of the report on the affected ANC, the Office of Planning, and the District Department of Transportation.

300.15 No later than twenty-one (21) days before the date of the hearing for the application, the applicant shall file with the Board any supplemental statements, information, briefs, reports (including reports or statements of expert and other witnesses), plans, or other supplemental material that the applicant may wish to offer into evidence at the hearing. Any map, plan, or other document, or matter readily available to the general public need only be fully referenced and the source given by the applicant in place of filing a copy.

300.16 Except for rebuttal or impeachment, the applicant may not offer any document not previously identified in the required filings, unless the presiding officer determines that the witness or document was not known or available to the applicant at the time the filings were due.

301 CHANCERY APPLICATION REQUIREMENTS

301.1 The owner of property upon which a chancery is proposed to be located, replaced, or expanded, or an authorized representative, shall file an application with the Board.

301.2 The application of an authorized representative shall include a letter signed by the owner authorizing the representative to act on the owner's behalf with respect to the application.

301.3 The Board may at any time require additional evidence demonstrating the authority of the representative to act for the owner.

301.4 An application shall contain a letter or other transmittal from the United States Department of State indicating that the Department of State has reviewed the application as required by § 205 of the Foreign Missions Act, D.C. Official Code § 6-1305, and has approved the application for the purposes of filing and processing by the Board.

301.5 Each application shall be made on the appropriate form provided by the Director. In addition to the information required by this section relating to appearance and representation, the applicant shall furnish all information required by the application form at the time of filing the application, including, as applicable:

(a) A plat, drawn to scale and certified by a survey engineer licensed in the District of Columbia or by the D.C. Office of the Surveyor, and showing the lot numbers and lot area of all properties within the square;

(b) A site plan showing the boundaries and dimensions of the existing and proposed structures and accessory buildings and structures, and, if applicable, any area of relief requested;

(c) Architectural plans and elevations in sufficient detail to clearly illustrate any proposed structure to be erected or altered, landscaping and screening, and, where applicable, parking and loading plans;

(d) A detailed statement addressing the review standards for chancery uses specified in Subtitle X § 201.8; and

(e) The names and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property, and self-stick labels printed with their names and addresses.

301.6 If the application is for a location in a low- to medium-density residence zone, a written statement by the applicant attesting to:

(a) A calculation of the land area within the square, or other area determined pursuant to Subtitle X § 201.4, of all low- to medium-density residence zoned lots, identified by lot numbers;

(b) For each lot within the square devoted to a use other than a residential use within a low- to medium-density residence zone, the number and date of the certificate of occupancy authorizing the use and the use designation authorized; and

(c) A copy of each certificate of occupancy referenced in Subtitle X § 204.6(b).

301.7 If the application is for a location in a low- to medium-density residence zone and an area other than a square has been used to calculate the percentage of existing uses pursuant to Subtitle X § 201.4, a statement shall be included explaining the basis for using the area, which shall not be based solely on previous Board action for another location.

301.8 When calculating the land area devoted to residential use, the area shall include the entire lot area of any property devoted to residential use in the computation of the land area.

301.9 If the chancery is to be located in a project with more than residential uses, the applicant shall calculate the land area within the square devoted to residential use by using a ratio equal to the proportion of residential use to other uses in the project.

301.10 Except as provided in Subtitle X § 204.12, all statements, information, briefs, reports (including reports and statements of experts and other witnesses), plans,

photographs, or other exhibits that the applicant may wish to offer in evidence at the public hearing shall be filed at the time of filing the application.

301.11 If a map, plan, or other document is readily available to the general public, in lieu of filing a copy of the document, the applicant need only provide a complete citation to the source of the document and indicate where the public may view the document.

301.12 No application shall be accepted unless accompanied by a certificate of service demonstrating that a copy of the application and all accompanying documents have been served upon:

(a) The Office of Planning; and

(b) The affected ANC.

301.13 No later than thirty (30) days before the date of the public hearing on the application, the applicant shall file with the Board any traffic or transportation reports to be submitted in support of the application. At or before the time of filing the traffic or transportation report with the Board, the applicant shall serve a copy of the report on the ANC for the area within which the property is located, the Office of Planning, and the District Department of Transportation.

301.14 No later than twenty-one (21) days before the date of the hearing for the application, the applicant shall file with the Board any supplemental statements, information, briefs, reports (including reports or statements of expert and other witnesses), plans, or other supplemental material that the applicant may wish to offer into evidence at the hearing.

302 ZONING APPEAL FILING REQUIREMENTS

302.1 Any person aggrieved or any officer or department of the government of the District of Columbia or the federal government affected by an order, requirement, decision, determination, or refusal made by an administrative officer or body, including the Mayor of the District of Columbia, in the administration or enforcement of the Zoning Regulations may file a timely zoning appeal with the Board. For the purposes of this subsection, a discretionary decision not to bring an enforcement action for a violation of the Zoning Regulations shall not be deemed a "refusal."

302.2 A zoning appeal shall be filed within sixty (60) days from the date the person appealing the administrative decision had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier.

302.3 If the decision complained of involves the erection, construction, reconstruction, conversion, or alteration of a structure or part thereof, the following paragraphs shall establish the latest date on which a zoning appeal may be filed:

(a) No zoning appeal shall be filed later than ten (10) days after the date on which the structure or part thereof in question is under roof. For purposes of this subparagraph, the phrase "under roof" means the stage of completion of a structure or part thereof when the main roof of the structure or part thereof, and the roofs of any structures on the main roof or part thereof, are in place; and

(b) The provisions of this subsection shall not relieve an appellant of the jurisdictional requirement in Subtitle Y § 302.2 of filing a timely zoning appeal.

302.4 Notwithstanding Subtitle Y §§ 302.2 and 302.3, for purposes of establishing the timeliness of a zoning appeal under this subsection, an appellant shall have a minimum of sixty (60) days from the date of the administrative decision complained of in which to file an appeal.

302.5 A zoning appeal may only be taken from the first writing that reflects the administrative decision complained of to which the appellant had notice. No subsequent document, including a building permit or certificate of occupancy, may be appealed unless the document modifies or reverses the original decision or reflects a new decision.

302.6 The Board may extend the sixty (60) day deadline for the filing of a zoning appeal only if the appellant demonstrates that:

(a) There are exceptional circumstances that are outside of the appellant's control and that could not have been reasonably anticipated that substantially impaired the appellant's ability to file a zoning appeal to the Board; and

(b) The extension of time will not prejudice the parties to the zoning appeal.

302.7 Each appeal shall meet the requirements of this section before it will be accepted by the Office of Zoning for processing.

302.8 No appeal shall be processed until the application is complete and all required fees are paid in accordance with the applicable fee schedule.

302.9 The appeal shall be filed on a form as may be designated by the Director.

302.10 An authorized representative may file a zoning appeal on behalf of the appellant. The zoning appeal shall include a letter signed by the appellant authorizing the representative to act on the aggrieved person's behalf with respect to the zoning appeal. The Board may at any time require additional evidence demonstrating the authority of the representative to act for the aggrieved person.

302.11 Each zoning appeal shall be made in an appropriate manner provided by the Director.

302.12 The appellant shall furnish two (2) copies of all information required by the form at the time of filing the appeal, including:

(a) The name of the administrative official or public agency whose decision is the subject of the zoning appeal;

(b) A statement identifying the administrative decision appealed, by permit or certificate number, or other identifying information, together with a copy of the decision;

(c) The square(s) and lot(s) and/or street address of the property involved, and the zone district within which it is located;

(d) The name and address of the owner, lessee, operator, and/or contract purchaser of the property that is the subject of the appeal, if not the appellant;

(e) A statement demonstrating that the zoning appeal meets the jurisdictional requirement of timeliness, as specified in Subtitle Y § 302.2, which shall specifically indicate:

(1) The date upon which the appellant first had notice or knowledge of the decision being appealed; and

(2) The circumstances under which such notice or knowledge occurred;

(f) A statement as to how the appellant has standing to bring the appeal, specifically with regard to the administrative decision being appealed:

(1) For an appeal brought by an officer or department of the government of the District of Columbia or the federal government the statement shall explain how they are affected by the administrative decision; and

(2) For all other appeals, the statement shall explain how the appellant is aggrieved;

(g) A statement of the issues on appeal, identifying the relevant subsection(s) for each issue of the Zoning Regulations;

(h) All statements, information, briefs, reports (including reports and statements of experts and other witnesses), plans, photographs, or other exhibits that the appellant may wish to offer in evidence at the public hearing;

(i) A copy of the resume of any expert witness who will be testifying in the case;

(j) A written summary of the testimony of all witnesses; and

(k) If a map, plan, or other document is readily available to the general public, in lieu of filing a copy of the document, the appellant need only provide a complete citation to the source of the document and indicate where the public may view the document.

302.13 An appeal may not be amended to add issues not identified in the statement of the issues on appeal submitted in response to Subtitle Y § 302.12(g) unless the appellee impeded the appellant's ability to identify the new issues identified.

302.14 Except for rebuttal or impeachment, the appellant may present no witness nor offer any document not previously identified in the filings required by Subtitle Y § 302 unless the presiding officer determines that the witness or document was not known or available to the appellant at the time the filings were due.

302.15 No appeal shall be accepted unless accompanied by a certificate of service demonstrating that a copy of the zoning appeal and all accompanying documents have been served upon:

(a) The person whose administrative decision is the subject of the appeal;

(b) The owner, of the property involved in the administrative decision, if not the appellant; and

(c) The affected ANC, if not the appellant.

302.16 No later than twenty-one (21) days before the date of the public hearing on the zoning appeal, the appellant shall file with the Board any supplemental documents.

302.17 No later than seven (7) days before the public hearing, the appellee and all persons with party status and the affected ANC shall file any responsive briefs and supporting information, whether in support of or opposition to the appeal. All filings shall be accompanied by a certificate of service.

302.18 No later than three (3) days before the public hearing, the appellant may file a brief and supporting information in reply to any of the responsive briefs.

302.19 Upon motion by appellee, party, or intervenor and for good cause, the Board may elect to waive Subtitle Y § 302.17 and permit any responsive briefs and supporting information, whether in support of or opposition to the appeal at the public hearing.

303 CIVIL INFRACTION APPEAL FILING REQUIREMENTS

303.1 Any person aggrieved by an order issued by an Administrative Law Judge (ALJ) pertaining to alleged civil infractions of the Height Act and the Zoning Regulations may file a timely civil infraction appeal with the Board.

303.2 A civil infraction appeal shall be filed within fifteen (15) days after service of the order.

303.3 An authorized representative may file a civil infraction appeal on behalf of the appellant. The civil infraction appeal shall include a letter signed by the appellant authorizing the representative to act on the appellant's behalf with respect to the civil infraction appeal. The Board may at any time require additional evidence demonstrating the authority of the representative to act for the appellant.

303.4 A civil infraction appeal shall be taken through the filing of a Notice of Appeal on the form provided by the Director. The appellant shall furnish two (2) copies of all information required by the form at the time of filing the appeal, including:

(a) That an appeal is taken;

(b) A copy or identification of the order from which the appeal is taken;

(c) A concise statement indicating why the appellant believes the final decision is in error;

(d) The full name, street address, and telephone number of the appellant and the appellant's counsel, if any;

(e) Whether oral argument is requested; and

(f) The signature of the appellant or the appellant's counsel.

303.5 At the time of filing the civil infraction appeal, the fee shall be paid pursuant to Subtitle Y, Chapter 16.

303.6 A Notice of Appeal shall not be accepted unless accompanied by a certificate of service demonstrating that a copy of the Notice and all accompanying documents have been served upon each party admitted to participate in the proceeding, who shall hereafter be referred to as the "other parties".

303.7 Upon receiving a complete appeal, the Director shall issue a briefing order outlining the documents that are pertinent to the appeal, including the following:

(a) The appellant shall serve and file a brief that includes:

(1) A table of contents, with page references, and a table of cases alphabetically arranged with asterisks placed before the cases

chiefly relied upon, and statutes, rules, regulations, and other authorities cited, with references to the pages of the brief where they are cited;

(2) A statement of the issues presented for review;

(3) A statement of the facts of the case. A statement will first indicate briefly the nature of the case, the course of proceedings, and its disposition by the ALJ. There will follow a statement of the facts relevant to the issues presented for review, with appropriate references to the record;

(4) An argument, which may be preceded by a summary. The argument shall contain the contentions and the reasons for those contentions, with citations to the authorities, statutes, and parts of the record relied upon; and

(5) A short conclusion stating the precise relief sought; and

(b) The appellee and any intervenor may serve and file a brief within forty (40) days of service of the appellant's brief; and the appellant may serve and file a reply brief within twenty-one (21) days of service of the appellee's brief.

303.8 Each brief must contain or be accompanied by a certificate of service.

CHAPTER 4 PRE-HEARING AND HEARING PROCEDURES: APPLICATIONS

400 REVIEW AND PROCESSING OF APPLICATIONS

400.1 The Director shall review for completeness every application filed with the Board within five (5) days of its receipt.

400.2 Upon completing the review of an application, the Director shall notify the applicant in writing of any deficiency. The notice shall list the information necessary to make the application complete and the date the information must be received, which shall not be less than five (5) days after the date of notice. If the applicant fails or refuses to correct the deficiencies in the application by the date stated, the Director shall not accept the application for filing.

400.3 As soon as an application is accepted for filing by the Director, the Director shall place a copy of the application in the public record of the Board.

400.4 Upon acceptance of an application, the Director shall provide a notice of filing to:

(a) The applicant;

(b) The affected ANC, with a copy of the application form;

(c) The affected Single-Member District ANC Commissioner;

(d) The Office of Planning;

(e) The District Department of Transportation; and

(f) The Councilmember for the ward within which the property is located.

400.5 Unless waived by an applicant, a public hearing, even if expedited under Subtitle Y § 400.7, shall be held on each application. Applications shall be heard in the order in which they are filed with the Board and appear on the calendar. The hearing date may be advanced or postponed by order of the Board for good cause shown.

400.6 All applications shall be immediately scheduled for hearing consistent with the notice provisions of this subtitle.

400.7 The Board shall have the authority to expedite applications; provided:

(a) The Office of Planning recommends expediting the case and indicates the reason an expedited processing is necessary and desirable; and

(b) Expediting the application shall not result in removing another application from the public hearing agenda for that date.

401 EXPEDITED REVIEW

401.1 An applicant may waive its right to a hearing for an eligible application and request an expedited review process subject to the provisions of this section.

401.2 An eligible application is an application for:

(a) A modification to a theoretical subdivision resulting from an addition to a one (1) dwelling unit building pursuant to Subtitle C § 305.9;

(b) An addition to a dwelling or flat or new or enlarged accessory structures pursuant to Subtitle D § 1701; or

(c) A park, playground, swimming pool, or athletic field pursuant to Subtitle D § 1603.13(a).

401.3 Each application shall be accompanied by a waiver of the applicant's right to a public hearing made on the appropriate form provided by the Director.

401.4 Subject to the removal process described in Subtitle Y §§ 401.7 and 401.8, an eligible application that includes a waiver of hearing will be placed on an expedited review calendar and decided without hearing at the Board's next regularly scheduled session after:

(a) The completion of the public notice procedures set forth in Subtitle Y § 402; and

(b) The completion of the affected ANC review period of thirty (30) days from the date it receives notice of the application, excluding Saturdays, Sundays, and holidays, plus an additional fourteen (14) days.

401.5 Notice of expedited review shall be given in the same manner and include the same information as required by Subtitle Y §§ 402.2 through 402.5, except that references to "public hearing" or "hearing" shall mean "expedited review" and all other requirements of Subtitle Y § 402 shall apply with the same proviso.

401.6 The public notice of an expedited review and the affected ANC notice of an application requesting expedited review shall also indicate:

(a) The procedure for requesting the removal of the application from the expedited review calendar is as described in Subtitle Y §§ 401.9 and 401.10; and

(b) That the only public notice of the hearing date for a removed application will be the posting of that date in the Office of Zoning beginning on the date that the application was removed and continuing until the date of such hearing.

401.7 An application tentatively placed on an expedited review calendar will be removed and rescheduled for a hearing:

(a) At the oral or written request of a Board member made at any time prior to the vote on the application;

(b) Upon the receipt of a timely filed request for party status in opposition to the application;

(c) At the written request of the Office of Planning, if filed with the Office of Zoning no later than fourteen (14) days prior to the date that the expedited review is scheduled; or

(d) Upon the request of the applicant to rescind the hearing waiver.

401.8 An application tentatively placed on an expedited review calendar also will be removed and rescheduled for a hearing if requested by the following entities or persons in accordance with Subtitle Y § 401.9, unless the request is denied by the presiding officer pursuant to Subtitle Y § 401.10:

(a) The affected ANC(s) or affected Single-Member District(s);

(b) The Councilmember representing the area in which the subject property is located or representing an area located within two hundred feet (200 ft.) of the subject property; or

(c) The owner or occupant of any property located within two hundred feet (200 ft.) of the subject property.

401.9 A request to remove made pursuant to Subtitle Y § 401.8 shall:

(a) Be filed with the Office of Zoning no later than fourteen (14) days prior to the date that the expedited review is scheduled;

(b) Be accompanied by a statement indicating that the requester, or the requester's representative, intends to appear as a witness at the hearing; and

(c) Include a summary proffer of the testimony to be given at that time.

401.10 The presiding officer shall grant a request to remove an application made pursuant to Subtitle Y § 401.8 unless the proffered testimony is irrelevant, in which case the request shall be denied.

401.11 Orders granting an application approved by expedited review need not contain findings of facts or conclusions of law, but shall reflect the nature of the relief granted and any conditions imposed.

402 PUBLIC NOTICE REQUIREMENTS

402.1 Not less than forty (40) days before the public hearing on an application, the Director shall give notice of public hearing by:

(a) Publishing the notice of public hearing in the *D.C. Register*;

(b) Providing a copy of the notice of public hearing to the applicant;

(c) Providing a copy of the notice of public hearing to the affected ANC, and for any other ANC that is within two hundred feet (200 ft.) of the property involved in the application;

(d) Providing a copy of the notice of public hearing to the owners of all property within two hundred feet (200 ft.) of the subject property; provided, however, that in the case of a residential condominium or cooperative with twenty-five (25) or more dwelling units, mailed notice may be provided to the board of directors of the association of the condominium or cooperative that represents all of the owners of the dwelling units;

(e) Providing a copy of the notice of public hearing to each person having a lease with the owner for all or part of any building located on the subject property;

(f) Providing a copy of the notice of public hearing to the Office of Planning and all other appropriate government agencies;

(g) Providing a copy of the notice of public hearing to the Councilmember for the ward within which the property is located; and

(h) Posting in the Office of Zoning the schedule of cases to be heard by the Board on the public hearing date.

402.2 The notice of public hearing on an application shall include:

(a) The case number of the application;

(b) The name of the applicant;

(c) The citation to the legal authority pursuant to which the application has been filed;

(d) The nature of the proposed zoning relief;

(e) The square(s) and lot(s) and/or street address of the property involved;

(f) The location, date, and time of the public hearing;

(g) The number of the affected ANC; and

(h) In the case of a special exception or variance application, the requirements for participation as a party.

402.3 The applicant shall give additional notice of the public hearing by posting the property with notice of hearing in a form that is prescribed by the Director at least fifteen (15) days in advance of the public hearing.

402.4 The notice required by Subtitle Y § 402.3 to be placed upon an applicant's property shall be posted in plain view of the public at each street frontage on the property and on the front of each existing building located on the subject property.

402.5 The notice required by Subtitle Y § 402.3 shall be removed by the applicant within two (2) days after the conclusion of the public hearing.

402.6 The notice required by Subtitle Y § 402.3 shall be supplied by the Director indicating the:

(a) The case number of the application;

(b) The name of the applicant;

(c) The nature of the application;

(d) The square(s) and lot(s) and/or street address of the property involved; and

(e) The location, time, and date of the public hearing.

402.7 The Board may give any additional notice of the public hearing that it deems necessary or appropriate.

402.8 The applicant shall comply with the requirements of Subtitle Y §§ 402.9 and 402.10 regarding filing of a sworn affidavit and maintenance of the posting.

402.9 When required to post any notice by Subtitle Y § 402.3, the applicant shall complete and file with the Director a completed affidavit of posting form, demonstrating compliance with Subtitle Y §§ 402.3 and 402.4. This affidavit shall be filed not less than five (5) days prior to the public hearing.

402.10 The applicant shall maintain the posting by checking the signs at least once every five (5) days and reposting as necessary. The applicant shall file an affidavit of maintenance of the posting between two (2) and six (6) days prior to the public hearing.

402.11 If the Board finds a failure or defect in the notice of public hearing, the Board shall determine whether to postpone, continue, or hold the public hearing as scheduled based on the following considerations:

(a) The nature and extent of the actual notice received by the parties and the public from all sources;

(b) Attendance or lack thereof at the public hearing; and

(c) The nature and extent of the construction and/or use proposed under the application.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

403 PARTIES: GENERAL GUIDELINES

403.1 This section and Subtitle Y § 404 only apply to applications for special exceptions and variances because parties are permitted to participate in those proceedings. These provisions do not apply to chancery applications, which are rulemaking proceedings and therefore no parties are allowed.

403.2 The use of the term "person" includes entities.

403.3 All persons may present testimony before the Board, but parties may also present witnesses, cross-examine witnesses, file pleadings and proposed orders, receive pleadings and proposed orders filed by other parties, and receive the final order issued by the Board.

403.4 Being a party is not a prerequisite to filing a petition to review a Board decision with the District of Columbia Court of Appeals.

403.5 The following persons automatically have party status:

(a) The applicant; and

(b) The affected ANC; except that if the subject property is located on a street that serves as a boundary line between two ANC's, both ANCs are automatic parties.

403.6 In a variance or special exception proceeding before the Board, a party shall be afforded all the procedural rights provided in this subtitle, including the right to receive a copy of any:

(a) Service by any other party in the case of documents at the same time or before the document is filed with the Board; and

(b) Written notice of any decision or order entered in the case.

403.7 In all variance or special exception proceedings before the Board, a party may:

(a) Submit motions and requests to the Board, and respond to any motions or requests submitted to the Board by others;

(b) Present witnesses in support of the party's position;

(c) Cross-examine all other parties and persons testifying in the case;

(d) Submit proposed findings of fact and conclusions of law; and

(e) Exercise all other procedural rights provided in this subtitle.

403.8 In a chancery proceeding before the Board, no person shall have the standing of a party.

404 REQUESTING PARTY STATUS

404.1 Except for the Applicant and the affected ANC, to participate as a party in a proceeding before the Board, any affected person shall file with the Board a Request for Party Status on the form and in the manner that the Director may prescribe. The person requesting party status and their authorized representatives, if any, shall provide the following information in their initial filing with the Board:

(a) Name, mailing address, telephone number, and e-mail address;

(b) An identification of the application by number, the applicant's name, and the address of the property that is the subject of the application;

(c) A request to appear and participate as a party;

(d) Whether the person will appear as a proponent or opponent of the application;

(e) If the person will appear through legal counsel or other authorized representation and, if so, the name and address of the legal counsel or other authorized representation;

(f) If the person will be represented by an individual, the request shall contain a written authorization that includes the power of the representative to bind the person in the case before the Board;

(g) If the party status request is not being made by an individual, but by an association, corporation, partnership, government agency, or other similar entity, the request shall include proof that the entity authorized the persons filing the request to do so. The proof may consist of a resolution of the person's board of directors; a copy of the by-law provision authorizing the particular officer, employee, or agent to represent the person in such proceedings; a letter signed by all the members of the organization; or similar proof satisfactory to the Board;

(h) A list of witnesses who will testify on the person's behalf, a written summary of the testimony of all witnesses, and a complete and professional resume for any expert who may be called to testify at the public hearing; and

(i) A written statement setting forth why the person should be granted party status, including reference to the following:

(1) The property owned or occupied by the person, or in which the person has an interest, that will be affected by the action requested of the Board;

(2) The legal interest the person has in the property, such as owner, tenant, trustee, or mortgagee;

(3) The distance between the person's property and the property that is the subject of the application before the Board;

(4) The environmental, economic, social, or other impacts likely to affect the person and/or the person's property if the action requested of the Board is approved or denied; and

(5) An explanation of how the person's interests as identified in response to paragraph (4) would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public.

404.2 The Board shall determine whether to grant or deny party status requests at the opening of the first public hearing on the application except the Board may consider a party status request at a public meeting scheduled at least fourteen (14) days prior to the public hearing, if the person requesting party status requests advance consideration on the Request for Party Status form.

404.3 A Request for Party Status that is to be considered at a public hearing shall be filed with the Board not less than fourteen (14) days prior to the public hearing.

404.4 A Request for Party Status that is requested to be considered at a public meeting shall identify the public meeting date sought and shall be filed with the Board not less than fourteen (14) days prior to that date.

404.5 If there is no public meeting scheduled within thirty (30) days of the public hearing, the person may request that the Chairperson schedule a special public meeting to hear the party status request.

404.6 At or before the time of filing the request, the person requesting party status shall serve a copy of the request on the applicant and the affected ANC.

404.7 At the time of the filing request, the person requesting party status shall file an affidavit of service to all parties with the Board.

404.8 Any opposition to a party status request by the applicant or affected ANC shall be filed within seven (7) days following the date by which it was served. An applicant's or affected ANC's failure to file a timely opposition shall be deemed signifying no objection to the Request for Party Status.

404.9 Replies to any opposition by the person requesting party status will not be accepted into the record.

404.10 A person requesting party status must be present at the public hearing or meeting at which the request is being considered; however, the attendance of the applicant or affected ANC at the public meeting is discretionary. Failure of the person or their representative to appear shall be deemed to constitute the withdrawal of the party status request.

404.11 During the portion of a public meeting in which a party status request is being considered, the Board may call forward the person making the request as well as the Applicant or affected ANC if an objection was timely made pursuant to Subtitle Y § 404.8. The Board may put questions to the person making the request and the Applicant or affected ANC and to hear argument on the issue.

404.12 The Board shall determine who will be recognized as a party. In so determining, the Board shall consider whether the provisions of Subtitle Y § 404.1 have been complied with and whether the specific information presented qualifies the person as a party.

404.13 The Board shall grant party status only if the person requesting party status has clearly demonstrated that the person's interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public.

404.14 No person may request reconsideration of the denial of their party status request.

404.15 If a Request for Party Status is denied, another Request for Party Status may not be made.

404.16 If a person granted party status no longer wishes to participate in the application, the person or their representative shall file written notice of that intent, which shall be served on the other parties. Upon the filing of such notice, the person shall no longer be considered a party.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

405 REFERRALS TO AND REPORTS OF PUBLIC AGENCIES

405.1 The provisions of this section apply as follows:

(a) This section except for Subtitle Y § 405.8 applies in its entirety to all variance and special exception applications and all appeals; and

(b) Except for the provisions of Subtitle Y § 405.8, this section shall not apply to chancery proceedings.

405.2 The Office of Zoning shall refer all applications to the appropriate public agencies for review and comment within ten (10) days of the receipt of the application.

405.3 When an application is referred in advance of the public hearing on the application to any public agency for a report and recommendation, the report and recommendation of that agency shall be filed with the Board at least ten (10) days before the date set for the public hearing.

405.4 The Office of Planning shall report on the application's compliance with each element of the special exception standards specified in Subtitle X § 901 and of any special condition applicable to the special exception, and each element of the variance standards specified in Subtitle X § 1002.

405.5 The Board shall give "great weight" to the written report of the Office of Planning pursuant to D.C. Official Code § 6-623.04.

405.6 Upon the request of the Board, the Director shall notify the public agency of the required attendance of an agency representative at the public hearing.

405.7 The failure of an agency to provide a report does not prevent the Board from hearing and deciding an application.

405.8 The Office of Zoning shall make the following referrals:

(a) To the Office of Planning for review and comment, and shall specifically request a determination of the municipal interest;

(b) To the Secretary of State for review and comment, and shall specifically request a determination of the federal interest, special security requirements, and the extent to which the site is capable of being adequately protected, as set forth in Subtitle X §§ 202.1(a), (c), (d), and (f); and

(c) If the application would require the construction, demolition, or alteration of a building located in a historic district, the alteration or demolition of a historic landmark, or the construction of a building or structure on the site of a historic landmark, the application shall be referred to the Historic Preservation Review Board, and if the property is located in the Old

Georgetown District as described in D.C Official Code § 6-1201 it shall also be referred to the Commission of Fine Arts for its review and report as to whether the substantive criteria of Subtitle X § 202.2 have been met.

406 ADVISORY NEIGHBORHOOD COMMISSION (ANC) REPORT

406.1 This section applies to an affected ANC.

406.2 The Board shall give "great weight" to the written report of the ANC that is received prior to the date of a Board meeting to decide the application provided that it contains the following:

(a) The case name and number;

(b) The date of the public meeting of the ANC to consider the application occurred;

(c) A statement that proper notice of that public meeting was given by the ANC;

(d) The number of members of the ANC that constitute a quorum and the number of members present at the public meeting;

(e) The issues and concerns of the ANC about the application, as related to the standards against which the application shall be judged;

(f) The recommendation, if any, of the ANC as to the disposition of the application;

(g) The outcome of the vote on the motion to adopt the report to the Board; and

(h) The signature of the ANC Chairperson or Vice-Chairperson.

406.3 If an ANC wishes to participate in the hearing, it must file its written report with the Board at least seven (7) days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

406.4 The oral testimony of the ANC representative shall not be given great weight unless accompanied within seven (7) days by written documentation approved by the respective ANC, which supports the testimony.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

407 MOTIONS PROCEDURE

407.1 A motion is a request by parties for the Board to take an action.

407.2 Unless made during a hearing, all motions shall be in writing. The first page of every motion shall contain: the parties' names, the case number, and the name of the presiding officer, if known. Every motion shall state the legal and factual reasons for the motion and the requested action of the Board.

407.3 At the time of filing any motion, a party must serve all other parties.

407.4 Unless otherwise provided by these rules or ordered by the presiding officer, all parties opposing a motion shall have seven (7) days from the service of the motion to file and serve a response.

407.5 The presiding officer may decide any procedural motion including motions to continue without holding a hearing.

408 HEARING PROCEDURES: GENERAL PROVISIONS

408.1 The presiding officer at a public hearing on an application shall have the authority to:

(a) Call the public hearing to order;

(b) Consider preliminary matters, including, but not limited to party status requests, motions, and qualifying expert witnesses;

(c) Conduct the public hearing;

(d) Rule upon offers of proof and receive relevant evidence;

(e) Exclude unduly repetitious, immaterial, or irrelevant testimony and permit a witness to adopt the prior testimony of another witness;

(f) Adjourn a public hearing and establish the date when the public hearing will be continued;

(g) Close the public hearing and record;

(h) Take action to maintain decorum and order; and

(i) Take any other action authorized by or necessary under this subtitle.

408.2 Except as provided in Subtitle Y § 408.4, the applicant and all parties (except an affected ANC) in support shall collectively have a maximum of sixty (60) minutes, exclusive of cross-examination, to present testimony. All parties (except an affected ANC) in opposition shall collectively have an amount of time equal to that of the applicant and parties in support, but in no case, more than sixty (60) minutes, exclusive of cross-examination, to present testimony in opposition.

408.3 Individuals shall have a maximum of three (3) minutes and organization representatives shall have a maximum of five (5) minutes to present testimony.

408.4 The Board may grant additional or lesser time than that allowed under Subtitle Y §§ 408.2 and 408.3 to an applicant, individual, organization representative, or party, to present a case, provided that the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

408.5 Nothing herein shall prohibit the Board from placing reasonable restrictions on cross-examination, including limitations on the scope of cross-examination, by the applicant or parties in support or opposition.

408.6 A party may cross-examine any other party, individual, or organization representative, except the Board; provided, that the presiding officer may rule a question out of order when it is irrelevant, immaterial, or unduly repetitious, or otherwise outside of the scope of cross-examination.

408.7 All testimony shall be provided under oath or affirmation.

408.8 The Board may pose questions to any witness.

408.9 Evidence shall be taken in conformity with D.C. Official Code § 2-509(b) (2012 Repl.).

408.10 The Board may close the record at the end of a public hearing and, in a bench decision, vote at such time either to grant or deny the application. Alternatively, the Board may schedule the case for a regularly scheduled or special public decision meeting.

409 HEARING PROCEDURES: VARIANCE AND SPECIAL EXCEPTION APPLICATIONS

409.1 The order for presenting evidence and arguments at public hearings on variance and special exception applications shall be as follows:

(a) Preliminary and procedural matters;

(b) Applicant's case;

(c) Report and recommendations from the Office of Planning;

(d) Reports and recommendations from other government agencies;

(e) Reports and recommendations from the affected ANC, and the ANC's witnesses, if any;

(f) Parties in support of the application;

(g) Individuals and organization representatives in support of the application;

(h) Parties in opposition to the application;

(i) Individuals and organization representatives in opposition to the application;

(j) Individuals and organization representatives who are undeclared with respect to the application;

(k) Rebuttal by applicant; and

(l) Closing statement by applicant.

409.2 In a special exception or a variance case, public agency representatives, parties, organization representatives, and individuals may appear as witnesses and offer evidence at a hearing.

409.3 In a special exception or a variance case, every party shall have the right to present in person or by counsel their case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

410 HEARING PROCEDURES: CHANCERY APPLICATIONS

410.1 All chancery proceedings shall be of a rulemaking nature.

410.2 The order of procedure at the hearing shall be as follows:

(a) Call to order and opening statement by the presiding officer;

(b) Consideration of procedural matters;

(c) Applicant's case;

(d) Reports and statements by the Secretary of State and the Mayor;

(e) Reports and recommendations by other government agencies;

(f) Reports and recommendations from the affected ANC;

(g) Individuals and organization representatives in support of the application; and

(h) Individuals and organization representatives in opposition to the application.

410.3 Any person may appear at a hearing in a chancery application proceeding and present evidence, testimony, or argument that is relevant and not unduly repetitious within such time limits as the Board may determine.

410.4 All testimony shall be provided under oath or affirmation.

CHAPTER 5 PRE-HEARING AND HEARING PROCEDURES: ZONING APPEALS

500 REVIEW AND PROCESSING OF APPEALS

500.1 The Director shall review for completeness every appeal submitted with the Board within five (5) days of its receipt.

500.2 Upon completing the review of an appeal, the Director shall notify the appellant in writing of any deficiency. The notice shall list the information necessary to make the appeal complete and the date the information must be received, which shall not be less than five (5) days after the date of notice. If the appellant fails or refuses to correct the deficiencies in the appeal by the date stated, the Director shall not accept the appeal for filing.

500.3 As soon as an appeal is accepted for filing by the Director, the Director shall place a copy of the appeal in the public record of the Board.

500.4 Upon acceptance of a zoning appeal, the Director shall provide a notice of filing to:

(a) The appellant;

(b) The administrative official or public agency whose decision is the subject of the appeal;

(c) The owner, lessee, operator, or contract purchaser of the property that is the subject of the administrative decision, if not the appellant;

(d) The affected ANC;

(e) The affected Single-Member District ANC Commissioner;

(f) The Councilmember for the ward within which the property is located; and

(g) The Office of Planning.

500.5 Unless the Board has dismissed an appeal before a hearing, a public hearing shall be held on each appeal. Appeals and applications shall be heard in the order in which they are filed with the Board and appear on the calendar. The hearing date may be advanced or postponed by order of the Board for good cause shown.

500.6 All appeals shall be immediately scheduled for hearing consistent with the notice provisions of this subtitle.

501 INTERVENOR STATUS: GENERAL GUIDELINES

501.1 In a zoning appeal, the following persons automatically have party status:

(a) The appellant;

(b) The person whose administrative decision is the subject of the appeal, the appellee;

(c) The owner, lessee, operator, or contract purchaser of the property that is the subject of the administrative decision, if different from the appellant; and

(d) The affected ANC.

501.2 In a civil infraction appeal, only the persons who participated as parties in the proceeding below shall have party status:

(a) The appellant;

(b) The District of Columbia Department of Consumer and Regulatory Affairs; and

(c) Any person who participated as a party in the proceeding that is the subject of the order being appealed.

501.3 Any person may move to intervene in a zoning appeal and may become an intervenor thereto if the Board finds that the party has an interest that may not be adequately represented by the automatic parties; provided, that the intervention would not unduly broaden the issues or delay the proceedings.

501.4 In an appeal proceeding before the Board, an intervenor shall be afforded all the procedural rights provided in this subtitle, including the right to receive a copy of any:

(a) Documents filed by any other party in the case at the same time or before the document is filed with the Board; and

(b) Written notice of any decision or order entered in the case.

501.5 In all contested case proceedings before the Board, an intervenor may:

(a) Submit motions and requests to the Board, and respond to any motions or requests submitted to the Board by others;

(b) Present witnesses in support of the intervenor's position;

(c) Cross-examine all other parties and persons testifying in the case;

(d) Submit proposed findings of fact and conclusions of law; and

(e) Exercise all other procedural rights provided in this subtitle.

502 REQUESTING INTERVENOR STATUS

502.1 Those persons who do not have automatic party status in a zoning appeal pursuant to Subtitle Y § 501.1, but who wish to participate as an intervenor in a contested case proceeding before the Board, shall file a written request for intervenor status with the Board that meets the following requirements:

(a) The person requesting intervenor status and their authorized representatives, if any, shall provide the following information in their initial filing with the Board: Name, mailing address, telephone number, facsimile number, and e-mail address;

(b) An identification of the appeal by number, the appellant's name, and the address of the property that is the subject of the appeal;

(c) A request to appear and participate as an intervenor;

(d) Whether the person will appear as a proponent or opponent of the appeal;

(e) If the person will appear through legal counsel or other authorized representation and, if so, the name and address of the legal counsel or other authorized representation;

(f) If the person will be represented by an individual, the request shall contain a written authorization that includes the power of the representative to bind the person in the case before the Board;

(g) If the intervenor status request is not being made by an individual, but by an association, corporation, partnership, government agency, or other similar entity, the request shall include proof that the entity authorized the persons filing the request to do so. The proof may consist of a resolution of the person's board of directors; a copy of the by-law provision authorizing the particular officer, employee, or agent to represent the person in such proceedings; a letter signed by all the members of the organization; or similar proof satisfactory to the Board;

(h) A list of witnesses who will testify on the person's behalf; and

(i) A written statement setting forth why the person should be granted intervenor status, including reference to the following:

(1) The property owned or occupied by the person, or in which the person has an interest, that will be affected by the action requested of the Board;

(2) The legal interest the person has in the property, such as owner, tenant, trustee, or mortgagee;

(3) The distance between the person's property and the property that is the subject of the application before the Board;

(4) The environmental, economic, social, or other impacts likely to affect the person and/or the person's property if the appeal is affirmed or reversed; and

(5) An explanation of how the party has an interest that may not be adequately represented by the automatic parties.

502.2 The Board shall determine whether to grant or deny intervenor status requests at the opening of the first public hearing on the appeal except the Board may consider an intervenor status request at a public meeting scheduled at least fourteen (14) days prior to the public hearing, if the person requesting intervenor status requests advance consideration on the Request for Intervenor Status form.

502.3 A Request for Intervenor Status that is to be considered at a public hearing shall be filed with the Board not less than fourteen (14) days prior to the public hearing.

502.4 A Request for Intervenor Status that is requested to be considered at a public meeting shall identify the public meeting date sought and shall be filed with the Board not less than fourteen (14) days prior to that date.

502.5 If there is no public meeting scheduled within thirty (30) days of the public hearing, the person may request that the Chairperson schedule a special public meeting to hear the intervenor status request.

502.6 At or before the time of filing the request, the person requesting intervenor status shall serve a copy of the request on the appellant and the affected ANC.

502.7 At the time of filing the request, the person requesting intervenor status shall file an affidavit of service to all parties with the Board.

502.8 Any opposition to an intervenor status request by the appellant or affected ANC shall be filed within seven (7) days following the date by which it was served. An appellant’s or affected ANC’s failure to file a timely opposition shall be deemed signifying no objection to the Request for Intervenor Status.

502.9 Replies to any opposition by the person requesting intervenor status will not be accepted into the record.

502.10 A person requesting intervenor status must be present at the public hearing or meeting at which the request is being considered; however, the attendance of the appellant or affected ANC at the public meeting is discretionary. Failure of the

person or their representative to appear shall be deemed to constitute the withdrawal of the intervenor status request.

502.11 During the portion of a public meeting in which an intervenor status request is being considered, the Board may call forward the person making the request as well as the appellant or affected ANC if an objection was timely made pursuant to Subtitle Y § 502.8. The Board may put questions to the person making the request and the appellant or affected ANC and to hear argument on the issue.

502.12 The Board shall determine who will be recognized as an intervenor. In so determining, the Board shall consider whether the provisions of Subtitle Y § 502.1 have been complied with and whether the specific information presented qualifies the person as an intervenor.

502.13 In considering any request for intervenor status, the Board shall grant intervenor status only if:

(a) The person requesting intervenor status, or their agent to represent the person in such proceedings, is present at the time of decision;

(b) The person requesting intervenor status has clearly demonstrated that:

(1) The person has a specific right or interest that will be affected by action on the appeal;

(2) The person's interest would likely be more significantly, distinctively, or uniquely affected by the proposed zoning relief than those of other persons in the general public;

(3) That specific right or interest will not be adequately represented by the automatic parties; and

(4) Their intervention would not unduly broaden the issues or delay the proceedings; and

502.14 In granting intervener status, the Board may specify whether the person will be permitted to intervene in the appeal for general or limited purposes.

502.15 No person may request reconsideration of the denial of their intervenor status request.

502.16 If a Request for Intervenor Status is denied, another Request for Intervenor Status may not be made.

502.17 If a person granted intervenor status no longer wishes to participate in the appeal, the person or their representative shall file written notice of that intent, which shall be served on the other parties. Upon the filing of such notice, the person shall no longer be considered an intervenor.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

503 ADVISORY NEIGHBORHOOD COMMISSION (ANC) REPORT

503.1 This section applies to an ANC within which the property that is the subject of an appeal is located; except that if the subject property is located on a street that serves as a boundary line between two ANCs, the section applies to both ANCs.

503.2 The Board shall give "great weight" to the written report of the ANC, pursuant to § 3 of the Comprehensive ANCs Reform Amendment Act of 2000, as amended, effective June 27, 2000 (D.C. Law 13-35; D.C. Official Code §§ 1-309 *et seq*.) provided that it contains the following:

(a) The case name and number;

(b) The date the public meeting of the ANC to consider the appeal occurred;

(c) A statement that proper notice of that public meeting was given by the ANC;

(d) The number of members of the ANC that constitute a quorum and the number of members present at the public meeting;

(e) The issues and concerns of the ANC about the appeal, as related to the standards against which the application or appeal shall be judged;

(f) The recommendation, if any, of the ANC as to the disposition of the appeal;

(g) The outcome of the vote on the motion to adopt the report to the Board;

(h) The name of the person who is authorized by the ANC to present the report; and

(i) The signature of the ANC Chairperson or Vice-Chairperson.

503.3 If an ANC wishes to participate as a party, it must file its written report with the Board at least seven (7) days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

503.4 The oral testimony of the ANC representative shall not be given great weight, unless accompanied within seven (7) days by written documentation approved by the respective ANC, which supports the testimony.

504 NOTICE OF PUBLIC HEARING: ZONING APPEALS

504.1 Not less than forty (40) days before the public hearing, the Director shall provide notice of the public hearing by:

(a) Publishing the notice in the *D.C. Register*;

(b) Providing a copy of the notice of public hearing to the appellant;

(c) Providing a copy of the notice of public hearing to the administrative official or government agency whose decision is the subject of the appeal;

(d) Providing a copy of the notice of public hearing to the owner, lessee, operator, or contract purchaser of the property that is the subject of the administrative decision, if not the appellant;

(e) Providing a copy of the notice of public hearing to the affected ANC, and the affected Single-Member District ANC Commissioner;

(f) Providing a copy of the notice of public hearing to the Councilmember for the ward within which the property is located; and

(g) Posting in the Office of Zoning the schedule of cases to be heard by the Board on the public hearing date.

504.2 The notice of a public hearing on a zoning appeal shall include:

(a) The case number of the zoning appeal;

(b) The name of the appellant;

(c) The citation to the legal authority pursuant to which the appeal has been filed;

(d) The administrative action appealed from;

(e) The square(s) and lot(s) and/or street address of the property that is the subject of the appeal;

(f) The location, date, and time of the public hearing;

(g) The number of the affected ANC(s); and

(h) The requirements for participation as an intervenor.

504.3 A technical defect in the notice of public hearing that is minor in nature shall not deprive the Board of jurisdiction over the case. If a defect in the notice is alleged and proven, the Board may determine whether to postpone, continue, or hold the public hearing as scheduled based on the following considerations:

(a) The nature and extent of the actual notice received by the parties and the public from all sources;

(b) Attendance, or lack thereof, at the public hearing; and

(c) The nature and extent of the construction and/or use involved in the appeal.

505 NOTICE OF PUBLIC HEARING: CIVIL INFRACTION APPEALS

505.1 Not less than forty (40) days before the public hearing, the Director shall provide notice of the public hearing by:

(a) Publishing the notice in the *D.C. Register*;

(b) Providing a copy of the notice of public hearing to the appellant;

(c) Providing a copy of the notice of public hearing to the Administrative Law Judge; and

(d) Posting in the Office of Zoning the schedule of cases to be heard by the Board on the public hearing date.

505.2 The notice of a public hearing on a civil infraction appeal shall include:

(a) The case number of the civil infraction appeal;

(b) The name of the appellant;

(c) The citation to the legal authority pursuant to which the appeal has been filed;

(d) The administrative action appealed from;

(e) The square(s) and lot(s) and/or street address of the property that is the subject of the appeal; and

(f) The location, date, and time of the public hearing.

505.3 A technical defect in the notice of public hearing that is minor in nature shall not deprive the Board of jurisdiction over the case. If a defect in the notice is alleged and proven, the Board may determine whether to postpone, continue, or hold the public hearing as scheduled based on the following considerations:

(a) The nature and extent of the actual notice received by the parties and the public from all sources;

(b) Attendance or lack thereof at the public hearing; and

(c) The nature and extent of the construction and/or use involved in the appeal.

506 HEARING PROCEDURES: GENERAL PROVISIONS

506.1 The presiding officer at a public hearing shall have the authority to:

(a) Call the public hearing to order;

(b) Consider preliminary matters, including, but not limited to, intervenor status requests, motions, and qualifying expert witnesses;

(c) Conduct the public hearing;

(d) Rule upon offers of proof and receive relevant evidence;

(e) Exclude unduly repetitious, immaterial, or irrelevant testimony and permit a witness to adopt the prior testimony of another witness;

(f) Adjourn a public hearing and establish the date when the public hearing will be continued;

(g) Close the public hearing and record; and

(h) Take any other action authorized by or necessary under this subtitle.

506.2 Except as provided in Subtitle Y § 506.4, the appellant and all parties (except an affected ANC) in support shall collectively have a maximum of sixty (60) minutes, exclusive of cross-examination, to present testimony. All parties (except an affected ANC) and intervenors in opposition shall collectively have an amount of time equal to that of the applicant and parties in support, but in no case, more than sixty (60) minutes, exclusive of cross-examination, to present testimony in opposition.

506.3 Individuals shall have a maximum of three (3) minutes and organization representatives shall have a maximum of five (5) minutes to present testimony.

506.4 The Board may grant additional or lesser time than that allowed under Subtitle Y §§ 506.2 and 506.3 to an appellant, individual, or an organization representative or party, to present a case, provided that the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

506.5 All testimony shall be provided under oath or affirmation.

506.6 The Board may pose questions to any witness.

506.7 Nothing herein shall prohibit the Board from placing reasonable restrictions on cross-examination, including limitations on the scope of cross-examination, by the appellant or parties/intervenors in support or opposition.

506.8 The Board may close the record at the end of a public hearing and, in a bench decision, vote at such time to either affirm or reverse the decision that is the subject of the appeal. Alternatively, the Board may schedule the case for a regularly scheduled or special public decision meeting.

507 HEARING PROCEDURES: ZONING APPEALS

507.1 The order for presenting evidence and arguments at the public hearing on a zoning appeal shall be as follows:

(a) Preliminary and procedural matters;

(b) Appellant's case;

(c) The respective cases of the parties or intervenors in support of the appeal, in the following order:

(1) The owner, lessee, operator, or contract purchaser of the property involved, if not the appellant;

(2) The affected ANC, if not the appellant; and

(3) Any other party permitted to intervene in the proceeding in support of the appeal;

(d) The administrative official's (appellee's) case;

(e) The respective cases of the parties or intervenors in opposition to the appeal, in the following order:

(1) The owner, lessee, operator, or contract purchaser of the property involved;

(2) The affected ANC; and

(3) Any other party permitted to intervene in the proceeding in opposition to the appeal;

(f) Rebuttal evidence from the appellant, followed by rebuttal evidence from the parties in support of the appeal, in the order indicated in subparagraph (c) of this paragraph; and

(g) Closing arguments, in the order established in subparagraphs (b) through (e) of this paragraph.

507.2 In a zoning appeal, parties may appear as witnesses and offer evidence at a hearing.

507.3 In a zoning appeal case, witnesses may be examined or cross-examined by the Board, the appellant, or any party or intervenor so determined by the Board under this subtitle.

507.4 The Board may close the record at the end of a public hearing and, in a bench decision, vote at such time to either affirm or reverse the decision that is the subject of the appeal. Alternatively, the Board may schedule the case for a regularly scheduled or special public decision meeting.

508 ORAL ARGUMENT PROCEDURES: CIVIL INFRACTION APPEALS

508.1 The order of procedure for presenting oral argument at a public hearing on a civil infraction appeal shall be as follows:

(a) Preliminary and procedural matters;

(b) Opening oral argument by the appellant;

(c) Oral argument by any other party in support of the appeal;

(d) Oral argument by the appellee, the D.C. Department of Consumer and Regulatory Affairs;

(e) Oral argument by any other party in opposition to the appeal; and

(f) Concluding oral argument by the appellant.

508.2 The Board, in its discretion, may permit the parties to appear before it and present oral argument before the Board in accordance with such limitations as to time of argument or other restrictions as the Board may prescribe.

CHAPTER 6 POST-HEARING PROCEDURES

600 DISPOSITION OF CASE BY WITHDRAWAL OR DISMISSAL

600.1 This section applies to all applications and appeals.

600.2 An applicant or appellant may withdraw, respectively, an application or appeal at any time prior to the issuance of the Board's written final decision and order, subject to the following conditions:

(a) The applicant or appellant shall file a written statement with the Board withdrawing the application or appeal;

(b) Withdrawal shall not authorize the removal of any document from the files of the Board;

(c) The application or appeal fee shall not be refunded upon withdrawal;

(d) If an application is withdrawn before the close of the record, a new application or appeal shall not be accepted for filing for at least ninety (90) days after the date the written statement of withdrawal is filed;

(e) If an application is withdrawn after the close of the record, a new application or appeal shall not be accepted for filing for at least one (1) year after the date the written statement of withdrawal is filed;

(f) The Board will grant permission to file a new application after a shortened time period only upon motion and for good cause shown, provided the shortened time period will not prejudice the rights of any person; and

(g) A withdrawn appeal may not be re-filed.

600.3 The Board may dismiss an application or appeal for failure of the applicant or appellant to comply with the procedural requirements of this subtitle, as follows:

(a) Dismissal shall not authorize the removal of any document or paper from the files of the Board;

(b) The application or appeal fee shall not be refunded upon dismissal;

(c) If an application is dismissed before the close of the record, a new application or appeal shall not be accepted for at least ninety (90) days after the date of the written order dismissing the application or appeal;

(d) If an application or appeal is dismissed after the close of the record, a new application shall not be accepted for filing for at least one (1) year after the date of the written order dismissing the application or appeal;

(e) The Board will grant permission to file a new application after a shortened time period only upon motion and for good cause shown, provided the shortened time period will not prejudice the rights of any person; and

(f) A dismissed appeal may not be re-filed.

600.4 No application or appeal shall be dismissed on the grounds that the applicant or appellant failed to comply with the provisions of this subtitle unless, after due notice of the deficiency and expiration of a reasonable time as fixed by the Board, the deficiency has not been corrected, except that the Board may immediately dismiss an application or appeal if the applicant or appellant fails to appear at a hearing without explanation.

601 PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

601.1 This section applies to all applications and zoning appeals filed with the Board under this subtitle except chancery applications.

601.2 When requested by the Board, a party shall submit proposed findings of fact and conclusions of law to the Office of Zoning within such time as the presiding officer may direct, which in any event shall not be less than seven (7) days after the transcript of the hearing is delivered to the Office of Zoning, pursuant to Subtitle Y § 104.4.

601.3 Each party shall serve any proposed findings of fact and conclusions of law on all other parties at the same time as the proposed findings and conclusions are filed with the Board. The parties shall also file a certificate of service.

601.4 Unless the Board specifies otherwise, no responses shall be permitted to a party's proposed findings of fact and conclusions of law.

602 CLOSING THE RECORD

602.1 The record shall be closed following the public hearing, except that the record may be kept open for a stated period for the receipt of specific exhibits, information, or legal briefs, as may be directed by the presiding officer.

602.2 Each party shall serve any specific exhibits, information, or legal briefs on all other parties at the same time as specific exhibits, information, or legal briefs are filed with the Board.

602.3 The Board shall allow all parties to a case an opportunity to file written responses to any exhibits, information, or briefs submitted after the close of the hearing. All responses shall be filed within seven (7) days after the date by which the exhibits, information, or briefs were due, unless otherwise directed by the presiding officer.

Replies by other parties to the aforementioned responses will not be accepted into the record.

602.4 The Board may on its own motion reopen the record prior to making a final decision for the purposes of requesting additional submissions or conducting a further hearing on designated issues.

602.5 Notice of any further hearing need only be provided to the parties. Notice of the reopened record and any further hearing, plus a designation of the issues, shall be forwarded to any party who appeared and participated in the earlier hearings. If only additional submissions are requested, the notice shall identify which parties are required to make the submission which parties may reply, and the time period for doing so. If a further hearing is to be held, the notice of such hearing shall be sent at least ten (10) days prior to the date set for the further hearing.

602.6 Any supplemental material received by the Board after the close of the record that bears upon the substance of the application or appeal shall be returned by the Director and not accepted into the files of the Board. However, if the materials are accompanied by a separate request to reopen the record, the request shall be accepted and presented to the Board for consideration. The request must demonstrate good cause and the lack of prejudice to any party. Such requests may be granted by the presiding officer and, if granted, the supplemental materials shall be entered into the record.

602.7 The Director shall notify the parties by e-mail of the acceptance of supplemental material. Any response by a party to such supplemental material must be filed no later than seven (7) days after the date of the e-mail notice.

603 EXCLUSIVE RECORD

603.1 No decision or order of the Board on an application or appeal shall be made except upon the exclusive record of the proceedings before the Board.

604 FINAL DECISION AND EFFECTIVE DATE OF DECISIONS

604.1 The provisions of this section apply as follows:

(a) This section applies in its entirety to all variance and special exception applications and all appeals; and

(b) Except for the provisions of Subtitle Y §§ 604.3 through 604.7 and 604.12, this section shall not apply to chancery proceedings.

604.2 The concurring vote of three (3) of the five (5) Board members is necessary for any decision.

604.3 A final order on an application or appeal shall be in writing and accompanied by findings of fact and conclusions of law unless the order grants an application for

which there was no party in opposition, in which case the order may be in summary form. All orders shall be filed in the record.

604.4 The prevailing party in any application or appeal may file a proposed order or a revision to a previously filed proposed order after a vote to approve or deny the application or affirm or reverse a decision is taken. No response to the proposed order may be submitted by any other party.

604.5 Formal notice of an order shall be given to any party to the application, by serving the party with a copy of the final order.

604.6 A copy of the final order shall be served on the Councilmember representing the ward within which the property is located and any affected ANC.

604.7 For purposes of this subtitle, a final order shall become final upon its filing in the record and service upon the parties, the date of which shall be stated at the conclusion of each order.

604.8 When the Board limits its approval of a special exception or variance to a term of years, the length of that term begins on the date upon which the order became final.

604.9 Approval of an application shall include approval of the plans submitted with the application for the construction of a building or structure (or addition thereto) or the renovation or alteration of an existing building or structure, unless the Board orders otherwise.

604.10 An applicant shall be required to carry out the construction, renovation, or alteration only in accordance with the plans approved by the Board, unless the Board orders otherwise.

604.11 No order of the Board shall take effect until ten (10) days after it becomes final pursuant to Subtitle Y § 604.7.

604.12 For a chancery application, a decision of the Board is final upon publication in the *D.C. Register*. The decision shall become effective ten (10) days after having become final.

604.13 An applicant whose application has been denied or disapproved shall not institute a new application on the same facts within one (1) year after the date the order upon the previous application became final, unless waived by the Board for good cause shown and proof of no prejudice to the parties or intervenors.

604.14 The Director or the Chairperson of the Board is authorized to sign a final order that has been approved by three (3) of the five (5) Board members whether those members participated in the decision or not.

CHAPTER 7 APPROVALS AND ORDERS

700 RECONSIDERATION OF FINAL ORDER; REHEARING AFTER FINAL ORDER

700.1 The provisions of this section apply as follows:

(a) This section applies in its entirety to variance and special exception applications and zoning appeals;

(b) The provisions of this section relating to reconsideration apply to civil infraction appeals; and

(c) This section does not apply to chancery proceedings.

700.2 Any party may file a motion for reconsideration of any decision of the Board, provided that the motion is filed with the Director within ten (10) days from the date of issuance of a final written order by the Board. The motion shall be served on all other parties to the proceeding at or before the time the motion is filed with the Board.

700.3 The Board shall not receive or consider any motion for reconsideration, rehearing, or re-argument of a Board decision in a contested case proceeding that is filed prior to an order being issued pursuant to Subtitle Y § 604.7, nor shall it waive this prohibition.

700.4 No party may file a motion for reconsideration or rehearing after a petition to review an order granting or denying a special exception or variance application or affirming or reversing a decision on appeal has been filed with the District of Columbia Court of Appeals and any pending motion for reconsideration or rehearing shall be dismissed if such a petition is filed.

700.5 Any party in a zoning appeal or a variance or special exception proceeding may make a motion to request that the Board re-open the record and rehear the application or appeal, in whole or in part, to permit the party to present newly discovered evidence which, by due diligence, could not have been reasonably presented to the Board prior to the issuance of the Board's final order.

700.6 A motion for reconsideration or rehearing shall be filed on a form and in a manner as may be designated by the Director.

700.7 A motion for reconsideration shall state specifically:

(a) All respects in which the final order is claimed to be erroneous; and

(b) The relief sought.

700.8 A motion for rehearing shall state specifically:

(a) The newly discovered evidence;

(b) The reason the newly discovered evidence could not have been reasonably presented to the Board prior to the issuance of the Board's final order; and

(c) The relief sought.

700.9 Within ten (10) days after a motion for reconsideration or rehearing has been filed and served, any other party may file a written response in support of or opposition to the motion. The response shall be served on all other parties to the proceeding at or before the time the response is filed with the Board. Replies by other parties to the aforementioned answers will not be accepted into the record.

700.10 The Board, on its own motion, may decide to reconsider or rehear a case, no later than ten (10) days after the filing of the final order in the case record.

700.11 If a rehearing is granted, the Board shall give notice of the rehearing, together with a designation of the issues to be addressed, in accordance with the procedures specified for providing public notice in the original public hearing.

700.12 Unless the Board orders otherwise pursuant to Subtitle Y § 701.2, neither the filing nor granting of a motion for reconsideration or rehearing shall automatically stay the effect of a final decision.

700.13 A motion for reconsideration or rehearing shall not be a prerequisite to judicial review.

701 STAY OF FINAL DECISION AND ORDER

701.1 The provisions of this section apply as follows:

(a) This section applies in its entirety to zoning appeals and variance and special exception applications;

(b) Except with respect to a stay pending rehearing, the provisions of this section apply to civil infraction appeals; and

(c) This section shall not apply to chancery proceedings.

701.2 The Board, on its own motion or the motion of a party or petitioner to the District of Columbia Court of Appeals, may order the effectiveness of a final decision and order of the Board stayed pending reconsideration or rehearing, or appeal of the decision and order to the Court of Appeals.

701.3 Except as provided in Subtitle Y § 701.4, the Board shall grant a stay only upon finding that all four of the following criteria are present:

(a) The party seeking the stay (or, in the case of a stay to be issued on the Board's own motion, the party in whose favor the stay would be ordered) is likely to prevail on the merits of the motion for reconsideration or rehearing, the *sua sponte* review, or the appeal;

(b) Irreparable injury will result if the stay is denied;

(c) Opposing parties will not be harmed by a stay; and

(d) The public interest favors the granting of the stay.

701.4 In determining whether to grant a stay, the Board may consider the following factors:

(a) Whether the party filing the motion is likely to succeed on the merits;

(b) Whether denial of the stay will cause irreparable injury;

(c) Whether, and to what degree, granting the stay will harm other parties; and

(d) Whether the public interest favors granting a stay.

702 VALIDITY OF APPROVALS AND IMPLEMENTATION

702.1 An order granting a special exception or variance where the establishment of the use is dependent upon the erection or alteration of a structure shall be valid for a period of two (2) years, or one (1) year for an Electronic Equipment Facility, within which time an application shall be filed for a building permit for the erection or alteration approved. If the erection or alteration of more than one (1) structure is approved, a building permit application must be filed for all such structures within this two (2) year period.

702.2 An order granting a special exception or variance where the establishment of the use is not dependent upon the erection or alteration of a structure shall be valid for a period of six (6) months, within which time an application shall be filed for a certificate of occupancy for the use approved.

702.3 In the event a petition to review an order of the Board is filed in the District of Columbia Court of Appeals, all time limitations of Subtitle Y §§ 702.1 and 702.2 shall commence to run from the decision date of the court's final determination of the appeal. Unless stayed by the Board or a court of competent jurisdiction, an applicant may proceed pursuant to the order of the Board prior to the court's final determination.

702.4 The filing of a request to modify plans or any other aspect of a Board order pursuant to Subtitle Y § 704 shall not toll the time periods in Subtitle Y §§ 702.1 and 702.2 and an order granting a modification shall not extend those time periods.

702.5 A structure erected pursuant to an area variance shall be deemed a conforming structure but any expansion that does not conform to the use and structure requirements of the Zoning Regulations shall require additional variance relief.

702.6 Expansion of a use authorized by a variance shall require the grant of another use variance.

702.7 Following approval of an application by the Board, the applicant may file an application for a building permit or certificate of occupancy with the proper authorities of the District of Columbia.

702.8 The Zoning Administrator shall not approve a permit application for zoning compliance unless the plans conform to the plans approved by the Board as those plans may have been modified by any guidelines, conditions, or standards that the Board may have applied, subject to the minor deviations permitted by Subtitle Y § 703.

702.9 The Zoning Administrator also shall not approve an application for a certificate of occupancy unless the requested use is identical to the use approved by the Board or is for a use permitted as a matter of right.

703 CONSENT CALENDAR – TECHNICAL CORRECTIONS, MINOR MODIFICATION, AND MODIFICATION OF CONSEQUENCE, TO ORDERS AND PLANS

703.1 This section applies to all applications and appeals filed with the Board under this subtitle.

703.2 The procedure shall allow the Board, in the interest of efficiency, to make, without public hearing, technical corrections, minor modifications, or modifications of consequence to previously approved final orders including any plans approved in such orders.

703.3 For purposes of this section, “minor modifications” shall mean modifications that do not change the material facts upon which the Board based its original approval of the application.

703.4 For the purposes of this section, the term “modification of consequence” shall mean a proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board.

703.5 Any party to a previously filed case in which an order has been issued may make a motion in writing to have a matter placed on the Consent Calendar.

703.6 An application for a technical correction, minor modification, or modification of consequence approval shall be made in an appropriate manner provided by the Director. The applicant shall furnish two (2) copies of all information required by the form at the time of filing the application, including the following:

(a) A completed application form;

(b) The nature of, reason(s), and grounds for the technical correction, minor modification, or modification of consequence;

(c) A copy of any Board final order, map, plan, or other action or relief proposed to be modified or corrected; and

(d) Proof of service to all parties.

703.7 No application for technical corrections, minor modifications, or modifications of consequence shall be processed until the application is complete and all required fees are paid in accordance with the applicable fee schedule prescribed in Subtitle Y, Chapter 16.

703.8 All written requests shall be served by the moving party on all parties in the original proceeding at the same time that the request is filed at the Office of Zoning.

703.9 Within ten (10) days after a request to put a matter on the Consent Calendar has been filed and served, any other party may file a response in opposition to or in support of the request. The responding party shall serve all other parties at the time that the response is filed with the Office of Zoning.

703.10 The Board, upon its own motion, may request that a matter be placed on the Consent Calendar.

703.11 Any member of the Board may remove any item from the Consent Calendar for any reason. Any matter that is not placed on the Consent Calendar or that is removed from the Consent Calendar shall be acted upon by the Board according to the applicable procedures contained in other sections of this subtitle.

703.12 A decision on a request for technical corrections, minor modifications, or modifications of consequence shall be made by the Board on the basis of the written request, the plans submitted therewith, and any responses thereto from other parties to the original application.

703.13 The Board may take one (1) of the following actions at a public meeting:

(a) At the request of a Board member remove an item from the Consent Calendar;

(b) Grant or deny a request for technical correction, minor modification, or modification of consequence; or

(c) In the case of a modification of consequence, establish a timeframe for the parties in the original proceeding to file responses in opposition to or in support of the request and for the applicant to respond thereto; and schedule the request for deliberations; or

(d) Determine that the request is actually for a modification of significance in which case an application for such a modification must be filed pursuant to Subtitle Y § 704.

703.14 The filing of any modification request under this section shall not act to toll the expiration of the underlying order and the grant of any such modification shall not extend the validity of any such order.

703.15 A request for minor modification of plans shall be filed with the Board not later than two (2) years after the date of the final order approving the application, or the circumstances of Subtitle Y § 702.3 apply, two (2) years after the date the decision date of the court's final determination of the appeal.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

704 MODIFICATION OF SIGNIFICANCE

704.1 Any request for modification that cannot be processed pursuant to Subtitle Y § 703 shall require a public hearing.

704.2 An application for a modification of significance shall be made in an appropriate manner provided by the Director. The applicant shall furnish two (2) copies of all information required by the form at the time of filing the application, including the following:

(a) A completed application form;

(b) The nature of, reason(s), and grounds for the modification of significance;

(c) The name and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property and two (2) copies of self-stick labels printed with their names and addresses;

(d) A copy of the resume of any expert witness who will be testifying in the case;

(e) A written summary of the testimony of all witnesses;

(f) A copy of any Board final order, map, plan, or other action or relief proposed to be modified or corrected; and

(g) Proof of service to all parties.

704.3 No application for modifications of significance shall be processed until the application is complete and all required fees are paid in accordance with the applicable fee schedule prescribed in Subtitle Y, Chapter 16.

704.4 All written requests shall be served by the moving party on all parties in the original proceeding at the same time that the request is filed at the Office of Zoning.

704.5 All requests for modifications of significance shall be served on all other parties to the original application at the same time as the request is filed with the Board.

704.6 A public hearing on a request for a significant modification shall be focused on the relevant evidentiary issues requested for modification and any condition impacted by the requested modification.

704.7 The scope of a hearing conducted pursuant to Subtitle Y § 704.1 shall be limited to impact of the modification on the subject of the original application, and shall not permit the Board to revisit its original decision.

704.8 A decision on a request for modification of plans shall be made by the Board on the basis of the written request, the plans submitted therewith, and any responses thereto from other parties to the original application.

704.9 The filing of any modification request under this section shall not act to toll the expiration of the underlying order and the grant of any such modification shall not extend the validity of any such order.

705 TIME EXTENSIONS

705.1 The Board may extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval; provided, that the Board determines that the following requirements are met:

(a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;

(b) There is no substantial change in any of the material facts upon which the Board based its original approval of the application that would undermine the Board's justification for approving the original application; and

(c) The applicant demonstrates that there is good cause for such extension, with substantial evidence of one (1) or more of the following criteria:

(1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control;

(2) An inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or

(3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

705.2 A time extension granted pursuant to Subtitle Y § 705.1 shall not exceed two (2) years, or one (1) year for an Electronic Equipment Facility.

705.3 The Board's decision on the request shall be in writing and shall become final and effective upon its filing in the record and service upon the parties.

705.4 A request for a time extension shall toll the expiration date for the sole purpose of allowing the Board to consider the request.

705.5 If the request is not decided prior to an order's expiration date, no application for a building permit may be filed pursuant to the order unless and until a decision granting the request becomes final and effective pursuant to Subtitle Y § 604.8.

706 EXPIRATION OF SPECIAL EXCEPTIONS AND USE VARIANCES

706.1 If a special exception use or use variance is established, the use will only expire if:

(a) An expiration date is specified in the order;

(b) The special exception use or use variance is discontinued for any reason for any period of three (3) or more years occurring after October 8, 2010; except where governmental action impedes access to the premises; or

(c) Either of the following occurs after the effective date of the order granting the variance:

(1) A certificate of occupancy for a different use is issued; or

(2) A residential use for which no certificate of occupancy is required is established.

706.2 If a special exception use or use variance expires, any subsequent use shall conform to the regulations of the district in which the use is located.

706.3 Notwithstanding Subtitle Y § 706.1(b), a special exception use or use variance shall not expire if there is objective proof of a continuing use or of affirmative

steps taken to resume the use during the period of time identified by the Zoning Administrator when revoking an existing certificate of occupancy or denying an application for a replacement certificate of occupancy.

706.4 An area variance shall expire if the structure erected or expanded pursuant to the variance is replaced by a structure that conforms to the structure requirements of the Zoning Regulations.

CHAPTER 8 REMAND PROCEDURE

800 INTRODUCTION TO THE REMAND PROCESS

800.1 This chapter provides regulations for the Board to follow when the District of Columbia Court of Appeals remands a Board decision for further proceedings.

801 REMAND PROCEDURES

801.1 Upon receipt of a Court of Appeals mandate remanding a Board decision, the Director shall request the Office of the Attorney General ("OAG") to provide a memorandum that:

(a) Summarizes the Court of Appeals holding;

(b) Identifies the issues that must be decided on the remand; and

(c) Provides such further information and analysis as to enable the Board to comply with the remand instructions.

801.2 Following receipt of the OAG memorandum, the Board may meet to determine whether it should request the parties to submit briefs, provide additional oral or documentary evidence, present oral argument, or to augment the record by other means.

801.3 If it is determined that any of these actions are needed, the Board shall issue a procedural order identifying the actions required and the timeframe within which those action must occur. The order shall be sent to any party who participated in the earlier proceedings, or the party's authorized representative.

801.4 No new parties shall be added to the case, and the Office of Zoning shall not accept requests for party status.

801.5 If a further hearing is ordered, the procedural order shall be issued no earlier than fourteen (14) days prior to the date set for the further hearing. The Director may provide such other notice of the hearing, as he or she deems appropriate.

801.6 Testimony at any further hearing shall be limited to witnesses called by the parties, unless the procedural order states otherwise.

801.7 Once the Board Chairperson believes that the record is sufficient to permit deliberation, the Board Secretary shall distribute to each Board member the case record and schedule the case for decision.

801.8 Any Board member who did not participate in the original decision shall indicate that he or she has read the record as a prerequisite to participating in the remand deliberations.

CHAPTER 9 THROUGH CHAPTER 15 [RESERVED]

CHAPTER 16 FEES

1600 FILING FEES FOR APPLICATIONS AND APPEALS

1600.1 Except as provided in Subtitle Y §§ 1600.2 and 1600.3, at the time of filing an appeal or application with the Board of Zoning Adjustment, the appellant or applicant shall pay a filing fee in accordance with the following schedule:

(a) Appeal of any decision of the Zoning Administrator or other administrative officer, one thousand forty dollars ($1,040), except that the following appellants shall not be required to pay a filing fee:

(1) A department, office, or agency of the Government of the District of Columbia, including an Advisory Neighborhood Commission (ANC);

(2) The National Capital Planning Commission; and

(3) A citizens' association or association created for civic purposes that is not for profit; and

(b) Application for a special exception:

(1) Accessory apartment, three hundred twenty-five dollars ($325);

(2) Antenna or monopole, two thousand six hundred dollars ($2,600);

(3) For an application for permission to locate, replace, or expand a chancery not meeting the conditions for a matter of right use, either:

(A) Sixty-five dollars ($65) for each one hundred square feet (100 sq. ft.) or part thereof of gross floor area; or

(B) Five hundred dollars ($500) when the expansion does not result in an increase to gross floor area, such as the erection or enlargement of a fence.

(4) Community-based institutional facility or emergency shelter, one hundred four dollars ($104) for each person housed based on the maximum capacity requested (not including resident supervisors and their families), with a maximum of five thousand two hundred dollars ($5,200);

(5) Continuing care retirement community, one hundred four dollars ($104) for each person housed based on the maximum capacity requested (not including resident supervisors and their families), with a maximum of five thousand two hundred dollars ($5,200);

(6) Daytime care use, thirty-three dollars ($33) for each individual based on the maximum capacity requested, with a maximum of three thousand two hundred fifty dollars ($3,250);

(7) Gasoline service station, five thousand two hundred dollars ($5,200);

(8) General institutional uses, one thousand five hundred sixty dollars ($1,560);

(9) Health care facility that houses individuals, thirty-three dollars ($33) for each person housed based on the maximum capacity requested (not including resident supervisors and their families), with a maximum of three thousand two hundred fifty dollars ($3,250);

(10) Home occupation not permitted as a matter of right in the R, RF, or RA zones, one thousand five hundred sixty dollars ($1,560);

(11) Large format retail, five thousand two hundred dollars ($5,200);

(12) Lodging, for any number of rooms, one hundred four dollars ($104) for each sleeping room or suite;

(13) Office use in an MU-1 or MU-2 zone, for each one hundred square feet (100 sq. ft.) or part thereof of gross floor area, fifty-two dollars ($52);

(14) Parking lot, parking garage, or accessory parking, one hundred four dollars ($104) for each parking space;

(15) Private school, thirty-three dollars ($33) for each full-time or part-time student based on the maximum capacity requested, with a maximum of three thousand two hundred fifty dollars ($3,250);

(16) Production, distribution, and repair uses, five thousand two hundred dollars ($5,200);

(17) Religious institutional uses or programs conducted by a religious congregation or group of congregations, one thousand five hundred sixty dollars ($1,560);

(18) Repair garage, one thousand five hundred sixty dollars ($1,560);

(19) Residential development, new, except those comprising all detached and semi-detached single dwelling units in the RA-1 and RA-6 zones pursuant to Subtitle U § 421.1, five hundred forty dollars ($540) for each dwelling unit;

(20) Roof structures pursuant to Subtitle C § 1500.14, two thousand six hundred dollars ($2,600);

(21) Theoretical lot pursuant to Subtitle C § 305.1, one thousand five hundred sixty dollars ($1,560) for the first lot and five hundred twenty dollars ($520) for each lot thereafter;

(22) Warehouse or wholesale use, five thousand two hundred dollars ($5,200);

(23) Waste-related services, including, but not limited to, hazardous waste removal, automobile repair shop including body work within two hundred feet (200 ft.) of a residential zone, and an intermediate materials recycling facility, five thousand two hundred dollars ($5,200); and

(24) For any other special exception not listed in this section, one thousand five hundred sixty dollars ($1,560);

(c) Application for a variance, one thousand forty dollars ($1,040) for each provision of the Zoning Regulations from which a variance is requested;

(d) Owner-occupied, single dwelling unit or flat, regardless of the number of variances, special exceptions, or alternatives requested, three hundred twenty-five dollars ($325); and

(e) For a time extension, a modification of a Board order or approved plans whether the modification is minor or not, for the owner of an owner-occupied single dwelling unit or flat, one hundred thirty dollars ($130); for all other applicants, twenty-six percent (26%) of the original filing fee.

1600.2 In the case of an application combining two (2) or more actions described in Subtitle Y §§ 1600.1(b) and 1600.1(c), or for an application requesting consideration of more than one (1) alternative, the fee shall be the total of the amounts for each action or alternative computed separately.

1600.3 A department, office, or agency of the Government of the District of Columbia shall not be required to pay a filing fee for a special exception or variance where the property is owned by the District of Columbia or that agency or is under one (1) or both of their jurisdictions and the property is to be occupied for a government building or use.

TABLE Y § 1600 – SCHEDULE OF FILING FEES

SPECIAL EXCEPTIONS			
Case Type	**Unit**	**Fee**	**Maximum**
Accessory apartment		$325	
Antenna or monopole		$2,600	
Chancery	per 100 sq. ft.	$65	
Community-based institutional facility or emergency shelter	per person	$104	$5,200
Continuing care retirement community	per person	$104	$5,200
Daytime care use	per student	$33	$3,250
Gasoline service station		$5,200	
General institutional uses		$1,560	
Health care facility	per person	$104	$6,000
Home occupation		$1,560	
Large format retail		$5,200	
Lodging	per room or suite	$104	
Office use in MU-1 or MU-2 zone	per 100 sq. ft.	$52	
Owner-occupied dwelling		$325	
Parking lot, parking garage, or accessory parking	per space	$104	
Private school	per student	$33	$3,250
Production, distribution, and repair pursuant to Subtitle U § 802.1(e)		$5,200	
Religious institutional uses		$1,560	
Repair garage		$1,560	
Residential development pursuant to Subtitle U § 421.1	each dwelling unit	$540	
Roof structures pursuant to Subtitle C § 1500.14		$2,600	
Special exception (all other)		$1,560	
Theoretical lot pursuant to Subtitle C § 305.1		$1,560	
Additional Theoretical Lot Under Subtitle C § 305.1		$520	
Time extension,/minor and non-minor modification (owner-occupied)		$130	
Time extension/minor and non-minor modification (all others)		26%	
Warehouse or wholesale use		$5,200	
Waste-related services		$5,200	
Property owned or under jurisdiction of District or District and to be occupied for a government building or use		$0	

SPECIAL EXCEPTIONS			
VARIANCES			
Case Type	**Unit**	**Fee**	**Maximum**
Owner-occupied dwelling		$325	
Property owned or under jurisdiction of the District or a District agency to be occupied for a government building or use.		$0	
All other		$1,040	
APPEALS			
Case Type	**Unit**	**Fee**	**Maximum**
NCPC/ANCs/Citizens Association/Civic Association/Not-for-Profits		$0	
All other organizations, groups or persons		$1,040	

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

1601 MISCELLANEOUS FEES

1601.1 Fees for miscellaneous zoning services and documents provided by the Office of Zoning are as follows:

(a) The fee for providing a zoning certification is fifty dollars ($50) for each property certified;

(b) The fee for photocopying is twenty cents (.20¢) per page;

(c) The fee for providing certification of an exhibit from a case record shall be fifteen dollars ($15) for each exhibit certified; and

(d) The fee for retrieving Office of Zoning records located off-site is thirty-two dollars ($32) per each request for retrieval of up to five (5) case files. This fee will be waived when the records are sought for noncommercial use and the request is made by an educational or scientific institution for scholarly or scientific research or by a representative of the news media. The Office of Zoning may not require advance payment of the fee unless the requester has previously failed to pay fees in a timely fashion.

TABLE Y § 1601 – SCHEDULE OF MISCELLANEOUS FEES

Service	Fee
Zoning Certification	$50.00
Photocopying	$ 0.20
Certification of Exhibit	$15.00
Retrieval of Records (located off-site)	$32.00

1602 ADMINISTRATION OF BOARD AND MISCELLANEOUS FEES

1602.1 The Director shall be responsible for administering, interpreting, and applying the terms of the fee schedule in Subtitle Y §§ 1600.1 and 1601.1.

1602.2 All fees shall be paid by check or money order made payable to the D.C. Treasurer, or by credit card where indicated by the Office of Zoning.

1602.3 The Director shall conduct a review of the fee structure triennially and make recommendations for changes to the Zoning Commission.

1602.4 Any decision of the Director regarding the application of the fee schedule set forth in Subtitle Y § 1600.1 may be appealed to the Board by the appellant or applicant. The fee appeal shall be in writing and set forth specifically the error allegedly committed by the Director, the grounds for the appeal, and the relief requested.

1602.5 The Board shall decide the fee appeal at a meeting. The Board's decision shall be communicated by the Director to the Applicant in writing. No request for reconsideration of the Board's decision shall be accepted and the Board may not waive this prohibition.

1602.6 Once a filing fee has been submitted, it will not be refunded except that the Board may authorize the refund by the District of Columbia Treasurer of all or a portion of the filing fee if it finds that the application was incorrectly filed at the direction of the Zoning Administrator.

TITLE 11 – ZONING

SUBTITLE Z ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE

TITLE 11 – ZONING Z-1

SUBTITLE Z ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE Z-1

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CHAPTER 1 ADMINISTRATION

100 JURISDICTION; AUTHORITY; POWERS

100.1 This chapter supplements procedures set out in the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 641.15 (2012 Repl.)) (hereinafter "Zoning Act"); the Zoning Regulations of the District of Columbia, Title 11 DCMR; and the D.C. Administrative Procedure Act, effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code §§ 2-501 to 2-511).

100.2 This subtitle shall be effective on September 6, 2016.

100.3 The Commission, pursuant to D.C. Official Code § 6-641.01, is empowered to regulate the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot which may be occupied, the sizes of yards, courts, and other open spaces, the density of population; and the uses of buildings, structures, and land for trade, industry, residence, recreation, public activities, or other purposes; and for the purpose of such regulation the Commission may divide the District of Columbia into districts or zones of such number, shape, and area as the Commission may determine, and within such districts may regulate the erection, construction, reconstruction, alteration, conversion, maintenance, and uses of buildings and structures, and the uses of land.

100.4 The Commission, pursuant to D.C. Official Code § 6-641.01, is empowered to promulgate regulations to require, with respect to buildings erected subsequent to the promulgation of such regulations, that facilities be provided and maintained either on the same lot with any such building, or on the same lot with any such building or elsewhere, for the parking of automobiles and motor vehicles of the owners, occupants, tenants, patrons, and customers of such building, and of the business, trades, and professions conducted therein.

100.5 The Commission, pursuant to D.C. Official Code §§ 6-621.01 and 6-641.01, is empowered to hear contested cases, as defined by D.C. Official Code § 2-509(8), brought under the Zoning Regulations, including cases described in Subtitle Z § 201.2.

100.6 The Commission, pursuant to D.C. Official Code §§ 6-621.01 and 6-641.01, is empowered to hear rulemaking cases, as defined by D.C. Official Code § 2-509(7), including cases described in Subtitle Z § 201.5.

101 GENERAL PROVISIONS

101.1 In any conflict between the provisions of this subtitle and any other provisions of this title, the other provisions of this title shall govern.

101.2 In any conflict within this section between general and specific provisions, the specific provisions shall govern.

101.3 In any conflict between this section and the D.C. Administrative Procedure Act, the Act shall govern.

101.4 In any conflict between this subtitle and the Zoning Act, the Act shall govern.

101.5 Legal advice from the Office of the Attorney General may be requested or received at any time.

101.6 Informal requests for advice or moot questions shall not be considered by the Commission.

101.7 When used in this subtitle the following terms shall have the meanings ascribed:

(a) ANC: Advisory Neighborhood Commission;

(b) Commission: Zoning Commission; and

(c) Director: Director of the Office of Zoning or his/her designee.

101.8 In this subtitle, the term "affected Advisory Neighborhood Commission" or "affected ANC" refers to the ANC within which the property that is the subject of an application or petition is located; except if an area represented by another ANC is directly across the street from property that is the subject of an application or petition the term shall also refer to that ANC. If a petition has a District-wide affect, all ANCs are deemed to be affected.

101.9 The Commission may, for good cause shown, waive any of the provisions of this subtitle if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

102 ORGANIZATION

102.1 The Commission shall consist of five (5) members and shall have the duties and powers set forth in this subtitle.

102.2 The Commission shall consist of three (3) Mayoral appointees, the Architect of the Capitol (or staff designee), and the Director of the National Park Service (or staff designee).

102.3 Three (3) members of the Commission shall constitute a quorum. A quorum is necessary to conduct a hearing or meeting, but a lesser number may publicly announce a postponement or adjournment. If necessary, the Director may announce a postponement.

102.4 The Commission shall elect its Chairperson and Vice-Chairperson at its first meeting held in February of each calendar year, unless a vacancy occurs at some other point during the calendar year, at which point the Commission shall hold elections in a timely manner.

102.5 The Chairperson shall preside at all meetings and hearings of the Commission. In the event of the absence or disability of the Chairperson, the Vice-Chairperson shall preside.

102.6 The Chairperson of the Commission shall be one (1) of the three (3) Mayoral appointees to the Commission.

102.7 A Commission member may vote or cast an absentee vote at a meeting only if the member attended all of the hearings on the application or petition or reviewed the complete record. Nothing in this subsection shall be construed to require a Commission member to review the complete record in order to vote on a subsequent application to extend or modify the order granting the application.

102.8 While a majority of the Commission members present at a meeting or hearing may take a procedural action, any proposed or final action on an application or petition requires the concurrence of at least three (3) of the five (5) Commission members.

102.9 No Commission member shall vote on any post-hearing motion unless the member participated in, and voted on, the original decision, or the member reviewed the complete record.

103 MEETINGS AND HEARINGS

103.1 On or about the first (1st) day of the calendar year, the Director shall publish in the *D.C. Register* a twelve (12)-month calendar or schedule of meeting dates, and continually update the Office of Zoning electronic calendar to reflect the meeting dates.

103.2 The meetings and hearings of the Commission shall be open to the public; provided that, for the reasons cited in § 405(b) of the D.C. Administrative Procedures Act, as amended by the Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-575(b)), the Commission may hold a closed meeting, but only after the Commission meets in public session and votes in favor of entering into or scheduling a closed meeting.

103.3 All records of the Commission shall be filed with the Office of Zoning and shall be open to public inspection.

103.4 Subject to the direction of the Commission and its Chairperson, the Director shall perform the following duties:

(a) Conduct all correspondence of the Commission, send out all notices required by this title, attend all meetings and hearings of the Commission, compile all required records, and maintain the necessary files and indexes;

(b) Enter in the Commission case record the number assigned to each application or petition, the name of the applicant or petitioner, a short description of the premises (by street number or otherwise), the nature of the application or petition, and the final disposition of the proceeding;

(c) Enter in the Commission case record all continuances, postponements, dates of sending notices, and other steps taken or acts done by the Commission or its officers on behalf of the Commission;

(d) Issue and revise application and petition forms to ensure presentation of adequate information required for the understanding and processing of applications and petitions; and

(e) Certify the zoning of a property upon the request of a member of the public subject to the payment of the fee set forth in Subtitle Z § 1504.

103.5 The proposed public agenda for each meeting shall be posted on the Office of Zoning website and available to the public at least four (4) days prior to each meeting.

103.6 Copies of the agenda shall be available to the public at all meetings and hearings.

103.7 Nothing in this section shall preclude the Commission from amending the agenda at a meeting or hearing.

103.8 A meeting of the Commission shall be held in accordance with a schedule to be established by the Commission pursuant to Subtitle Z § 103.1, and additional meetings may be scheduled or cancelled as needed. Meetings may be called by the presiding officer or by three (3) Commission members.

103.9 The Commission shall schedule hearings for the purpose of receiving evidence and testimony on specific applications and petitions advertised in advance.

103.10 Meetings and hearings shall be held at such time and place as the Commission or the Office of Zoning may designate.

103.11 When postponing or continuing a contested case, the Commission shall make reasonable efforts to schedule the public hearing within thirty (30) days.

103.12 If the time and place of resumption is publicly announced when a postponement, continuance, or adjournment is ordered, no further notice shall be required. For the purposes of this section, the form of the public announcement may be a sign placed at the entrance to the Commission's hearing room.

104 TRANSCRIPTS OF PUBLIC MEETINGS AND HEARINGS

104.1 The transcripts of Commission public meetings and hearings are a matter of public record and shall be available through the Office of Zoning.

104.2 The public meetings and hearings shall be reported under the supervision of the presiding officer, by transcription or by other means, by an official reporter who may be designated by the Director or who may be an employee of the Office of Zoning.

104.3 The transcript prepared by the reporter shall be the sole official transcript of public meetings and hearings.

104.4 Copies of the transcript will be made available by the Office of Zoning fourteen (14) days after the public meeting or hearing.

104.5 A motion to correct a transcript may be made only when the alleged error is substantive.

104.6 A motion to correct a transcript shall be filed with the Commission within ten (10) days after the transcript has been made available in the Office of Zoning.

104.7 Copies of the motion to correct a transcript shall be served simultaneously on all parties or their authorized representatives.

104.8 The Commission will rule on a motion to correct a transcript at a public meeting or hearing.

104.9 Objections to the motion to correct a transcript shall be filed with the Commission within five (5) days and served upon the parties.

104.10 The Commission, on its own motion at a public meeting or hearing, may order changes to a transcript at any time for any reason.

104.11 If a motion to correct a transcript is granted, the corrected transcript will be made available by the Office of Zoning fourteen (14) days after the Commission grants the motion.

105 RULES OF ETHICS

105.1 The following Rules of Ethics are intended to be complementary to, and not in place of, the ethical requirements applicable to all District Officials, as those requirements are stated in the Ethics Manual for the District of Columbia and the District and federal laws it references. To the extent there is any conflict between the rules that follow and requirements described in the Ethics Manual, the more stringent requirement shall govern.

105.2 Members of the Commission shall at all times maintain a high level of ethical conduct in connection with the performance of their official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the government of the District of Columbia.

105.3 Members of the Commission shall avoid all actions which might result in, or create the appearance of, the following:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of government.

105.4 Members of the Commission shall not ask for or accept, either directly or through someone else, any gift, gratuity, favor, loan, entertainment, or anything of value from a person who has or is seeking a contract with the District of Columbia; is regulated by the District; or has any interest that may be affected by the member of the Commission's performance of official duties.

105.5 In any proceedings before the Commission, all members of the Commission shall be prohibited from receiving or participating in any *ex parte* communication relevant to the merits of the proceeding.

105.6 The prohibition in Subtitle Z § 105.5 shall begin to apply upon the referral of any application or petition pursuant to Subtitle Z §§ 400.3 and 500.3, and shall not terminate until the final disposition of the case.

105.7 The prohibition in Subtitle Z § 105.5 shall not extend to communication between the Commission and the Office of Zoning concerning matters of record.

105.8 A member of the Commission shall disqualify himself or herself in a proceeding before the Commission in which the member's impartiality might reasonably be questioned, including but not limited to instances where:

(a) The member of the Commission has a personal bias or prejudice concerning a party or a party's representative, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) The member of the Commission served as a representative in the matter in controversy, or has been a material witness concerning it;

(c) The member of the Commission knows, or reasonably should have known, that he or she, individually or as a fiduciary, or the member's spouse, domestic partner, parent or child wherever residing, or any other member of the Commissioner's family residing in the member's household, has an economic interest in the matter in controversy or in a party to the proceeding or has any other more than *de minimus* interest that could be substantially affected by the proceeding; or

(d) The member of the Commission or their spouse, domestic partner, parent or child wherever residing, or any other member of the Commissioner's family residing in the member's household:

(1) Is a party to the proceeding, or an officer, director, or trustee of a party;

(2) Is acting as a lawyer or otherwise representing a party in the proceeding; or

(3) Is known to have a more than *de minimus* interest that could be substantially affected by the proceeding.

105.9 A member of the Commission subject to disqualification by the terms of Subtitle Z § 105.8 may disclose on the record the basis of the member's disqualification and may ask the parties and their representatives to consider whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and their representatives all agree that the member of the Commission should not be disqualified, and the member is then willing to participate, the Commissioner may participate in the proceeding.

105.10 No member of the Commission shall represent any person before the Board of Zoning Adjustment or Commission other than himself or herself while a member of the Commission.

105.11 No former member of the Commission shall represent any person before the Board of Zoning Adjustment or Commission other than himself or herself for a period of one (1) year after the date that the member's service on the Commission terminates.

105.12 For a period of two (2) years after the date on which the member's service on the Commission terminates, no former member of the Commission shall assist in representing, including aiding, counseling, advising, and consulting, another person in a particular matter involving a specific party before the Commission or Board of Zoning Adjustment other than himself or herself, if he or she

participated personally and substantially in the particular matter while a member of the Commission.

105.13 No former member of the Commission shall represent any person other than himself or herself in a particular matter for which the Commission member had a substantial involvement while a member of the Commission or an employee of the District.

CHAPTER 2 PUBLIC PARTICIPATION

200 APPEARANCE AND REPRESENTATION

200.1 In a proceeding before the Commission, any person or party may appear on that person's or party's own behalf.

200.2 Any person or party may be represented by any other person duly authorized in writing to do so.

200.3 The authorization shall state specifically that the authorization includes the power of the agent or representative to bind the person in the case before the Commission.

201 APPLICATIONS AND PETITIONS

201.1 Any contested case proceeding before the Commission shall be initiated by the filing of an application with the Commission on the form and in the manner that the Director may prescribe, except that the Commission may initiate a case on its own motion.

201.2 Contested cases are adjudicatory in nature, present issues for resolution at a public hearing that potentially have a limited scope of impact, and involve primarily questions of fact applicable to that limited scope of impact, while broader issues of public policy are secondary concerns. Contested cases include, without limitation, all applications that do not meet the requirements of a rulemaking case under Subtitle Z § 201.5. Contested cases include:

(a) Design review;

(b) Planned unit developments (PUDs);

(c) Campus plans and further processings;

(d) Air space development; and

(e) Map amendments filed by the property owner or owners for a single property or for multiple properties that are contiguous or are only separated by a street or alley;

201.3 Contested cases, as defined by D.C. Official Code § 2-502(8), shall be initiated by the filing of an application. Public hearings on contested cases shall be processed and conducted according to the provisions of D.C. Official Code § 2-509 (2012 Repl.) and Subtitle Z, Chapter 4, unless the Commission determines otherwise pursuant to Subtitle Z § 201.9.

201.4 Any rulemaking case proceeding before the Commission shall be initiated by the filing of a petition with the Commission on the form and in the manner that the

Director may prescribe, except that the Commission may initiate a case on its own motion.

201.5 Rulemaking cases are legislative in nature and present issues for resolution at a public hearing that potentially affect large numbers of persons or property or the public in general, and include, without limitation, the following:

(a) Amendments to the text of the Zoning Regulations; and

(b) Map amendments pursuant to Subtitle Z § 201.7.

201.6 Except for cases initiated by the filing of an Office of Planning report or by the Commission on its own motion, rulemaking cases, as defined by D.C. Official Code § 2-502(7), shall be initiated by the filing of a petition. Public hearings on rulemaking cases shall be processed and conducted according to the provisions of D.C. Official Code § 2-505 (2012 Repl.) and Subtitle Z, Chapter 5, unless the Commission determines otherwise pursuant to Subtitle Z § 201.9.

201.7 Map amendments in rulemaking cases may be initiated by:

(a) Public agencies to amend the zoning map for a neighborhood, commercial district, or other geographic area encompassing multiple properties, unless determined otherwise by the Commission pursuant to Subtitle Z § 201.9; and

(b) Private persons, organizations, or other entities to amend the zoning map in cases where:

(1) The petitioner does not own all of the property proposed to be rezoned; or

(2) The petitioner owns all of the property proposed to be rezoned, but the ownership pattern is geographically scattered or otherwise of a character that raises land use policy questions to a greater degree than highly localized issues of fact and effects on neighboring properties.

201.8 In a rulemaking case before the Commission, including, but not limited to, those cases described in Subtitle Z § 201.5, there are no parties or motions.

201.9 Notwithstanding the classifications of cases in Subtitle Z §§ 201.2 and 201.5, the Commission may, on its own motion or at the request of the applicant, petitioner, or affected ANC, determine the designation of such case as a contested case or a rulemaking case based on the standards contained in Subtitle Z §§ 201.2 and 201.5.

202 DECORUM AND GOOD ORDER

202.1 This section applies to all proceedings before the Commission.

202.2 No person shall utter loud, threatening, or abusive language, or engage in any disorderly or disruptive conduct, including the display of any signs or objects, that has the effect of (as determined by the presiding officer) impeding any meeting, hearing, or other proceeding or the orderly conduct of official business of any member, officer, employee, or agent of the Commission or the Office of Zoning; or enter or remain in, during the course of any meeting, hearing, or other proceeding of the Commission, any area set aside for use by persons other than the general public.

203 EVIDENCE

203.1 Exhibits may be offered in evidence at the hearing.

203.2 Any exhibit that exceeds a size suitable for inclusion in the record shall be reduced to a size not to exceed tabloid size of eleven inches (11 in.) by seventeen inches (17 in.).

203.3 If models are used, images of the models not exceeding tabloid size of eleven inches (11 in.) by seventeen inches (17 in.) shall be submitted into the record.

203.4 If PowerPoint presentations, computer simulations, slides, or similar media are used, a paper copy of the exhibit shall be filed with the Commission.

203.5 If a video is used, six (6) copies of the video on DVD shall be filed with the Commission.

203.6 The Zoning Act, the Zoning Regulations, and the official Zoning Map, shall be a part of the record of every proceeding before the Commission, and it shall not be necessary for any party or person formally to move their introduction into evidence.

203.7 If a map, plan, or other document is readily available to the general public, in lieu of filing a copy of the document, the applicant or petitioner need only provide a complete citation to the source of the document and indicate where the public may view the document.

203.8 An individual offered as an expert witness shall provide written evidence to the Commission of expertise including, but not limited to, educational attainment, licensing, accreditation, examples of relevant or comparable work, and employment.

203.9 An expert witness shall be present at the hearing and be available for questions from the Commission and cross-examination by any other party.

203.10 The applicant or petitioner, public agency representatives, additional parties, organization representatives, and individuals may appear as witnesses and offer evidence at a hearing.

203.11 In a contested case under Subtitle Z, Chapter 4, witnesses may be examined or cross-examined by the Commission, the applicant, or any party so determined by the Commission under this subtitle.

203.12 In a rulemaking case under Subtitle Z, Chapter 5, only the Commission may examine witnesses. A public agency representative may pose a question to a witness through the presiding officer.

204 COMPUTATION OF TIME

204.1 In computing any period of time, days shall refer to calendar days unless otherwise specified.

204.2 In computing any period of time specified in this title, the day of the act, event, or default after which the designated period of time begins to run shall not be included.

204.3 The last day of the period computed as provided in Subtitle Z § 204.2 shall be included unless it is a Saturday, Sunday, or official District of Columbia holiday, in which event the period shall run until the end of the next day that is neither a Saturday, Sunday, nor official District of Columbia holiday.

204.4 Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper, and the paper or notice is served upon the party by mail, three (3) days shall be added to the prescribed period.

204.5 Except as otherwise provided by law, whenever an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, for good cause, be extended or reduced by the Commission with notice to all parties or announcement on the record.

205 SERVICE OF DOCUMENTS; METHODS OF SERVICE; PROOF OF SERVICE

205.1 Any document required to be served upon a party shall be served upon that party or upon the representative designated by that party or by law to receive service of documents. When a party has appeared through a representative, service may be made upon the representative of record.

205.2 Where there are numerous parties to a proceeding, the Commission may designate representative parties or make other special provisions regarding the service of documents.

205.3 Service may be made and shall be considered complete as indicated in paragraphs (a) through (f) of this subsection, or as otherwise authorized by law:

(a) By personal delivery to the party's address of record by either handing the document to the person to be served, handing it to a responsible individual of suitable age, or leaving it in a conspicuous place;

(b) By express mail, when properly addressed and with charges prepaid;

(c) By first-class mail, when deposited in the United States mail, properly stamped and addressed;

(d) By facsimile, when transmitted with the proper facsimile number corresponding to the intended recipient;

(e) By electronic mail (e-mail), when transmitted with the proper electronic mail address; or

(f) In any specific manner prescribed by the Commission in a proceeding.

205.4 Each document filed by a party, whether in hard copy, by e-mail, or electronically, must include a signed statement that the document was served on the parties. Such a statement is known as a "certificate of service." The certificate of service shall identify the individual serving the paper, the parties served and their addresses, the way it was served, and the date served.

205.5 A certificate of service may be represented by:

(a) Written acknowledgement of the party served or that party's representative of record; or

(b) The written statement of the person making the service.

206 SUBMITTING COMMENTS OR FILING DOCUMENTS ELECTRONICALLY OR BY E-MAIL

206.1 This section includes provisions for the electronic filing of comments and documents through the Interactive Zoning Information System (IZIS) and by e-mail with the Office of Zoning. It also permits the Office of Zoning to serve orders and notices by e-mail.

206.2 The submission of any comments electronically following the procedures set forth in Subtitle Z §§ 206.3 through 206.5 constitutes filing for all purposes under these rules.

206.3 Comments may be submitted electronically through IZIS or by e-mail.

206.4 All comments submitted electronically through IZIS shall:

(a) Contain the name, mailing address, telephone number, and e-mail address of the person filing it; and

(b) Describe the nature of the comments (for example, "Comments in Support," "Comments in Opposition," or "General Comments").

206.5 All comments submitted by e-mail shall:

(a) Contain the name, mailing address, telephone number, and e-mail address of the person filing it;

(b) Describe the nature of the comments (for example, "Comments in Support," "Comments in Opposition," or "General Comments");

(c) Include the case number and case name in the subject line of the e-mail; and

(d) Be e-mailed to zcsubmissions@dc.gov.

206.6 The filing of any documents electronically following the procedures set forth in Subtitle Z §§ 206.7 through 206.12 constitutes filing for all purposes under these rules.

206.7 All documents to be filed electronically through IZIS or by e-mail shall be in portable document format (PDF).

206.8 All documents filed electronically through IZIS shall:

(a) Contain the name, mailing address, telephone number, and e-mail address of the person filing it;

(b) Contain the case number assigned by the Office of Zoning;

(c) Describe the nature of the documents (for example, "Letter in Support," "Letter in Opposition," or "Request for Party Status"); and

(d) Not exceed the maximum allowable size of eight (8) megabytes.

206.9 All documents filed by e-mail shall:

(a) Contain the name, mailing address, telephone number, and e-mail address of the person filing it;

(b) Describe the nature of the documents (for example, "Letter in Support," "Letter in Opposition," or "Request for Party Status");

(c) Include the signature of the originator;

(d) Contain no more than ten (10) pages;

(e) Include the case number and case name in the subject line of the e-mail; and

(f) Be sent to zcsubmissions@dc.gov.

206.10 All filings submitted through IZIS on or before 11:59 p.m. shall be recorded as being received on the same day.

206.11 All e-mail filings sent between 12:01 a.m. and 5:00 p.m. on any Office of Zoning business day shall be recorded on the date it was received.

206.12 The filing date for an e-mail filing received between 5:01 p.m. and 12:00 p.m. will be recorded the next business day.

206.13 The date and time recorded in the correct Office of Zoning electronic mailbox at zcsubmissions@dc.gov, shall be conclusive proof of when it was received.

206.14 Parties are responsible for monitoring their e-mail accounts and for opening e-mails.

206.15 The Office of Zoning shall serve orders and notices by e-mail to any party who provides an e-mail address. The party is responsible for ensuring that the Office of Zoning has an accurate, up-to-date e-mail address.

206.16 Any notice required by D.C. Official Code § 1-309.10(c)(4) to be provided to affected ANCs, the Commissioner representing the affected single member district, and the Office of ANCs ("notice recipients") may be provided by electronic or first-class mail; provided, that the notice shall be by first-class mail unless a notice recipient agrees in writing to receive future notifications through electronic mail.

206.17 A notice of an application shall constitute the notice required by D.C. Official Code § 1-309.10(b) and starts the time period for the affected Commission to review the application and submit its written report pursuant to D.C. Official Code § 1-309.10(d).

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 3 APPLICATION REQUIREMENTS

300 PLANNED UNIT DEVELOPMENT (PUD) APPLICATION REQUIREMENTS

300.1 Each application seeking approval of a PUD pursuant to Subtitle X, Chapter 3 shall meet the requirements of this section before it will be accepted by the Commission for processing.

300.2 No PUD application shall be processed until the application is complete and all required fees are paid in accordance with the applicable fee schedule prescribed in Subtitle Z, Chapter 16.

300.3 A PUD application may include property owned by one (1) or more persons.

300.4 The name, address, and signature of each owner of property included in the area to be developed, or of the owner's authorized agent, shall be included in the PUD application.

300.5 In an application for a modified PUD, the application need only be signed by the owner(s) of the property within the existing PUD site that is the subject of the modification.

300.6 The application shall be filed on a form as may be designated by the Director.

300.7 At least forty-five (45) calendar days prior to filing an application under this chapter, the applicant shall mail written notice of its intent (NOI) to file the application to the affected ANC and to the owners of all property within two hundred feet (200 ft.) of the perimeter of the property in question.

300.8 The NOI shall describe generally the proposed development, including the name of all owners of the property involved and the use, height, bulk, and other significant aspects of the proposal. The notice shall also indicate the applicant's availability to discuss the proposed development with all interested and affected groups and individuals.

300.9 The applicant shall make all reasonable efforts to attend a duly noticed meeting of the affected ANC during the forty-five (45) day notice period.

300.10 An application for PUD approval shall be made in an appropriate manner provided by the Director.

300.11 The applicant for a first-stage PUD shall furnish ten (10) copies of architectural drawings and two (2) copies of all other information required by the form at the time of filing the application, including the following:

(a) A completed application form;

(b) A certified surveyor's plat of the subject property prepared by the Office of the Surveyor;

(c) A map showing the location of the proposed project, the existing zoning for the subject site, the zoning of adjacent properties, and any proposed change of zoning;

(d) A statement of the purposes and objectives of the project, including the proposed form of development and a detailed statement elucidating how the application meets the PUD evaluation standards of Subtitle X;

(e) A statement certifying to whom and in what manner the required NOI was given. The applicant shall also indicate what meetings or discussions were held with the Office of Planning, the affected ANC, and other individuals and community groups concerning the proposed development, as well as any changes that resulted from these meetings or discussions;

(f) A general site, landscape, and development plan indicating the proposed use, location, dimensions, number of stories, and height of each building, and the exact area of the total site; and

(g) A tabulation of development data showing the following:

(1) The area and dimensions of each lot proposed for each building and the exact area of the total site;

(2) The percentage of lot occupancy of each building on each lot and the total percentage of lot occupancy for all buildings on the entire site;

(3) The gross floor area and floor area ratio for each building on each lot, including a break-down for each use, and the total gross floor area and floor area ratio for all buildings on the entire site, including a breakdown for each use;

(4) A circulation plan, including the location of all vehicular and pedestrian access ways and the location and number of all off-street parking spaces and loading berths, including an indication of which spaces are designated for which use;

(5) The existing topography of the development area; the location of all major natural features, including trees of six-inch (6 in.) caliper or greater; and the location and elevations of public or private streets, alleys, or easements bounding or traversing the site, including an indication of which of the rights-of-way or easements are to be continued, relocated, or abandoned;

(6) Estimated quantities of potable water required by the project, and of sanitary sewage and storm water to be generated, including the methods of calculating those quantities; and

(7) Any other information needed to understand the unique character and problems of developing the PUD; and

(h) The name and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property and self-stick labels printed with their names and addresses.

300.12 The applicant for a second-stage PUD shall furnish ten (10) copies of architectural drawings and two (2) copies of all other information required by the form at the time of filing the application including the following:

(a) A completed application form;

(b) A certified surveyor's plat of the subject property prepared by the Office of the Surveyor;

(c) A detailed statement as to the uses to be located in the project, including the location, number, size, and types of stores, offices, residential, institutional, industrial, and other uses;

(d) A statement certifying to whom and in what manner the required NOI was given. The applicant shall also indicate what meetings or discussions were held with the Office of Planning, the affected ANC, and other individuals and community groups concerning the proposed development, as well as any changes that resulted from these meetings or discussions;

(e) A detailed site plan, showing the location and external dimensions of all buildings and structures, utilities and other easements, walkways, driveways, plazas, arcades, and any other open spaces;

(f) A detailed landscaping and grading plan, showing all existing contour lines, including graphic illustration of grades exceeding fifteen percent (15%) in five percent (5%) increments, landscaping to be retained, grades, planting, and landscaping. The plan shall also show the proposed drainage for the site, including the location of buildings, roads, sidewalks, water and sewer lines, inlets, and basins, and connections to public water and sewer lines. Proposed erosion control measures shall also be shown;

(g) Typical floor plans and architectural elevations for each building, sections for each building and the project as a whole, and sections and elevations of the entire square within which the project is located;

(h) A final detailed circulation plan showing all driveways and walkways, including widths, grades, and curb cuts, as well as detailed parking and loading plans;

(i) Any other information needed to understand the final design of the proposal, or information specifically requested by the Commission;

(j) A statement showing how the second-stage plans are in accordance with the intent and purposes of this title, the PUD process, and the first-stage approval; and

(k) The name and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property and self-stick labels printed with their names and addresses.

300.13 No application shall be accepted unless accompanied by a certificate of service demonstrating that a copy of the application and all accompanying documents have been served upon:

(a) The Office of Planning; and

(b) The affected ANC.

301 DESIGN REVIEW APPLICATION REQUIREMENTS

301.1 Each application for design review approval pursuant to Subtitle X, Chapter 6 shall meet the requirements of this section before it will be accepted by the Office of Zoning for processing.

301.2 No design review application shall be processed until the application is complete and all required fees are paid in accordance with the applicable fee schedule prescribed in Subtitle Z, Chapter 16.

301.3 A design review application may include property owned by one (1) or more persons.

301.4 The name, address, and signature of each owner of property included in the area to be developed, or of the owner's authorized agent, shall be included in the design review application.

301.5 The application shall be filed on a form as may be designated by the Director.

301.6 At least forty-five (45) days prior to filing an application under this chapter, the applicant shall serve a written notice of intent (NOI) to file the application on the affected ANC and on the owners of all property within two hundred feet (200 ft.) of the perimeter of the property in question.

301.7 The NOI shall describe generally the proposed development, including the name of all owners of the property involved and the use, height, bulk, and other significant aspects of the proposal. The notice shall also indicate the applicant's availability to discuss the proposed development with all interested and affected groups and individuals.

301.8 The applicant shall make all reasonable efforts to attend a duly noticed meeting of the affected ANC during the forty-five (45) day notice period.

301.9 An application for design review approval shall be made in an appropriate manner provided by the Director.

301.10 The applicant for a design review application shall furnish ten (10) copies of architectural plans and two (2) copies of all other information required by the form at the time of filing the application, including the following:

(a) A completed application form;

(b) A certified surveyor's plat of the subject property prepared by the Office of the Surveyor;

(c) A map showing the location of the proposed project, the existing zoning for the subject site, and the zoning of adjacent properties;

(d) A statement of the purposes and objectives of the project, including the proposed form of development and a detailed statement describing how the application meets the design review evaluation standards in Subtitle X § 604;

(e) A statement certifying to whom and in what manner the required NOI was given. The applicant shall also indicate what meetings or discussions were held with the Office of Planning, the affected ANC, and other individuals and community groups concerning the proposed development, as well as any changes that resulted from these meetings or discussions;

(f) A detailed statement as to the uses to be located in the project, including the location, number, size, and types of stores, offices, residential, institutional, industrial, and other uses;

(g) A detailed site plan, showing the location and external dimensions of all buildings and structures, utilities and other easements, walkways, driveways, plazas, arcades, and any other open spaces;

(h) A detailed landscaping and grading plan, showing all landscaping to be retained, including trees of eighteen inch (18 in.) circumference or greater, proposed planting, and landscaping;

(i) Typical floor plans and architectural elevations for each building, sections for each building and the project as a whole, and sections and elevations of the entire square within which the project is located;

(j) A circulation plan, including the location of all vehicular and pedestrian access ways and the location and number of all off-street parking spaces and loading berths, including an indication of which spaces are designated for which use;

(k) A tabulation of development data showing the following:

(1) The area and dimensions of each lot proposed for each building and the exact area of the total site;

(2) The percentage of lot occupancy of each building on each lot and the total percentage of lot occupancy for all buildings on the entire site; and

(3) The gross floor area and floor area ratio for each building on each lot, including a break-down for each use, and the total gross floor area and floor area ratio for all buildings on the entire site, including a breakdown for each use;

(l) A table listing by-right development standards and identifying all areas of relief requested and the degree of such relief;

(m) The name and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property and self-stick labels printed with their names and addresses; and

(n) Any other information needed to understand the proposed project.

301.11 An application for design review in the USN zone shall also include the requirements listed in Subtitle K §§ 320, 322, and/or 324.

301.12 No application shall be accepted unless accompanied by a certificate of service demonstrating that a copy of the application and all accompanying documents have been served upon:

(a) The Office of Planning; and

(b) The affected ANC.

302 CAMPUS PLAN/FURTHER PROCESSING AND MEDICAL CAMPUS PLAN APPLICATION REQUIREMENTS

302.1 Each application for campus plan/further processing and medical campus plan approval pursuant to Subtitle X, Chapter 1 shall meet the requirements of this section before it will be accepted by the Office of Zoning for processing.

302.2 No campus plan/further processing and medical campus plan application shall be processed until the application is complete and all required fees are paid in accordance with the applicable fee schedule prescribed in Subtitle Z, Chapter 16.

302.3 A campus plan/further processing and medical campus plan application may include property owned by one (1) or more persons.

302.4 The name, address, and signature of each owner of property included in the area to be developed, or of the owner's authorized agent, shall be included in the campus plan/further processing application.

302.5 The application shall be filed on a form as may be designated by the Director.

302.6 At least forty-five (45) days prior to filing an application under this chapter, the applicant shall serve a written notice of intent (NOI) to file the application on the affected ANC and on the owners of all property within two hundred feet (200 ft.) of the perimeter of the property in question.

302.7 The NOI shall describe generally the proposed development, including the name of all owners of the property involved and the use, height, bulk, and other significant aspects of the proposal. The notice shall also indicate the applicant's availability to discuss the proposed development with all interested and affected groups and individuals.

302.8 The applicant shall make all reasonable efforts to attend a duly noticed meeting of the affected ANC during the forty-five (45) day notice period.

302.9 An application for campus plan/further processing approval shall be made in an appropriate manner provided by the Director.

302.10 The applicant for a campus plan/further processing and medical campus plan application shall furnish ten (10) copies of architectural drawings and two (2) copies of all other information required by the form at the time of filing the application, including the following:

(a) A completed application form;

(b) A certified surveyor's plat of the subject property prepared by the Office of the Surveyor;

(c) Facilities Plan:

(1) Existing conditions, including existing topography, the location of any wetlands, and the location and size of existing trees to be removed on or adjacent to the property;

(A) Building mass and height;

(B) FAR for current campus; and

(C) Current building uses;

(2) Proposed conditions;

(A) Future needs/capital improvements (10 yrs.);

(B) Building mass, including FAR, height, and bulk of all new or proposed buildings;

(C) FAR for entire campus with proposed building(s); and

(D) Proposed building uses.

(d) Student count for every student on campus, including full-time, part-time, foreign, certificate/non-degree, single course, night programs, and executive program students (if applicable);

(e) Employee count for every employee, including full-time, part-time, and administration;

(f) Neighborhood Context:

(1) Edge conditions/Border transitions;

(2) Community relations;

(3) Identification/Mitigation of impacts;

(4) Noise, amplified sound, lighting, etc.; and

(5) Outdoor activities and special events;

(g) Comprehensive Accessibility:

(1) Transportation demand management plan;

(2) Multi-modal transportation plan; and

(3) Parking, loading study;

(h) Conservation:

(1) Historic considerations;

(2) Sustainability considerations; and

(3) Environmental impacts;

(i) Landscape/Open Space;

(j) Streetscape treatment, including signage/wayfinding;

(k) An explanation of all programs on campus including educational, certificate, adult learning, international, career training, religious, night classes, civic, and non-profit uses;

(l) The number of students enrolled in a District of Columbia public or public charter school that also take classes on the campus shall be included in the application but shall not be counted against any approved enrollment cap (if applicable);

(m) The name and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property and self-stick labels printed with their names and addresses; and

(n) Any other information needed to understand the proposed project.

302.11 No application shall be accepted unless accompanied by a certificate of service demonstrating that a copy of the application and all accompanying documents have been served upon:

(a) The Office of Planning; and

(b) The affected ANC.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

303 AIR SPACE DEVELOPMENT APPLICATION REQUIREMENTS

303.1 Each application for approval of an air space development pursuant to Subtitle X, Chapter 7 shall meet the requirements of this section before it will be accepted by the Office of Zoning for processing.

303.2 No air space development application shall be processed until the application is complete and all required fees are paid in accordance with the applicable fee schedule prescribed in Subtitle Z, Chapter 16.

303.3 The application shall be filed on a form as may be designated by the Director.

303.4 At least forty-five (45) days prior to filing an application under this chapter, the applicant shall serve a written notice of intent (NOI) to file the application on the affected ANC and on the owners of all property within two hundred feet (200 ft.) of the perimeter of the property in question.

303.5 The NOI shall describe generally the proposed development, including the name of all owners of the property involved and the use, height, bulk, and other significant aspects of the proposal. The notice shall also indicate the applicant's availability to discuss the proposed development with all interested and affected groups and individuals.

303.6 The applicant shall make all reasonable efforts to attend a duly noticed meeting of the affected ANC during the forty-five (45) day notice period.

303.7 An application for air space development approval shall be made in an appropriate manner provided by the Director.

303.8 The applicant shall furnish ten (10) copies of architectural drawings and two (2) copies of all other information required by the format the time of filing the application, including:

(a) A completed application form;

(b) A certified surveyor's plat of the subject property prepared by the Office of the Surveyor;

(c) A map showing the location of the proposed project, the existing zoning for the subject site, and the zoning of adjacent properties;

(d) A statement of the purposes and objectives of the project;

(e) A statement certifying to whom and in what manner the required NOI was given. The applicant shall also indicate what meetings or discussions were held with the Office of Planning, the affected ANC, and other individuals and community groups concerning the proposed development, as well as any changes that resulted from these meetings or discussions;

(f) A detailed statement as to the uses to be located in the project, including the location, number, size, and types of stores, offices, residential, institutional, industrial, and other uses;

(g) A detailed site plan, showing the location and external dimensions of all buildings and structures, utilities and other easements, walkways, driveways, plazas, arcades, and any other open spaces;

(h) A detailed landscaping and grading plan, showing all landscaping to be retained, including trees of eighteen inch (18 in.) circumference or greater, proposed planting, and landscaping;

(i) Typical floor plans and architectural elevations for each building, sections for each building and the project as a whole, and sections and elevations of the entire square within which the project is located;

(j) A circulation plan, including the location of all vehicular and pedestrian access ways and the location and number of all off-street parking spaces and loading berths, including an indication of which spaces are designated for which use;

(k) A tabulation of development data showing the following:

(1) The area and dimensions of each lot proposed for each building and the exact area of the total site;

(2) The percentage of lot occupancy of each building on each lot and the total percentage of lot occupancy for all buildings on the entire site; and

(3) The gross floor area and floor area ratio for each building on each lot, including a break-down for each use, and the total gross floor area and floor area ratio for all buildings on the entire site, including a breakdown for each use;

(l) A table listing by-right development standards and identifying all areas of relief requested and the degree of such relief;

(m) The name and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property and self-stick labels printed with their names and addresses; and

(n) Any other information needed to understand the proposed project.

303.9 No application shall be accepted unless accompanied by a certificate of service demonstrating that a copy of the application and all accompanying documents have been served upon:

(a) The Office of Planning; and

(b) The affected ANC.

304 MAP AMENDMENT APPLICATION AND PETITION REQUIREMENTS

304.1 Each application or petition for approval of a map amendment pursuant to Subtitle X, Chapter 5 shall meet the requirements of this section before it will be accepted by the Office of Zoning for processing.

304.2 No map amendment application or petition shall be processed until the application or petition is complete and all required fees are paid in accordance with the applicable fee schedule prescribed in Subtitle Z, Chapter 16.

304.3 A map amendment application or petition may include property owned by one (1) or more persons.

304.4 The application or petition shall be filed on a form as may be designated by the Director or the Commission.

304.5 At least forty-five (45) days prior to filing a map amendment application under this chapter, the applicant shall serve a written notice of intent (NOI) to file the application on the affected ANC and on the owners of all property within two hundred feet (200 ft.) of the perimeter of the property in question.

304.6 In a map amendment application, the applicant shall make all reasonable efforts to attend a duly noticed meeting of the affected ANC during the forty-five (45) day notice period.

304.7 An application or petition for map amendment approval shall be made in an appropriate manner provided by the Director. The applicant or petitioner shall furnish two (2) copies of all information required by the form at the time of filing the application or petition, including:

(a) A completed application or petition form;

(b) A certified surveyor's plat of the subject property prepared by the Office of the Surveyor;

(c) A map showing the location of the properties including, the existing zoning, the zoning of adjacent properties, and all proposed changes of zoning;

(d) A detailed description of the map amendment's consistency with the Comprehensive Plan and any other adopted public policies and active programs related to the subject site;

(e) For a map amendment application, a statement certifying to whom and in what manner the required NOI was given. The applicant shall also indicate what meetings or discussions were held with the community and the OP and the affected ANC as well as any changes that resulted from community input; and

(f) For a map amendment application, the name and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property and self-stick labels printed with their names and addresses.

304.8 No application or petition shall be accepted unless accompanied by a certificate of service demonstrating that a copy of the application and all accompanying documents have been served upon:

(a) The Office of Planning; and

(b) The affected ANC.

305 TEXT AMENDMENT PETITION REQUIREMENTS

305.1 Each text amendment petition shall meet the requirements of this section before it will be accepted by the Office of Zoning for processing.

305.2 No zoning text amendment petition shall be processed until the petition is complete and all required fees are paid in accordance with the applicable fee schedule prescribed in Subtitle Z, Chapter 16.

305.3 The application shall be filed on a form as may be designated by Director or the Commission.

305.4 A petition for text amendment approval shall be made in an appropriate manner provided by the Director.

305.5 The petitioner shall furnish two (2) copies of all information required by the form at the time of filing the petition, including:

(a) A statement of the purposes and objectives of this proposal and how it is consistent with the guidance and direction in the current Comprehensive Plan; and

(b) Any other information needed to understand the implications of the proposed changes.

305.6 No petition shall be accepted unless accompanied by a certificate of service demonstrating that a copy of the application and all accompanying documents have been served upon:

(a) The Office of Planning; and

(b) The affected ANC.

CHAPTER 4 PRE-HEARING AND HEARING PROCEDURES: CONTESTED CASES

400 SETDOWN PROCEDURES: SCHEDULING CONTESTED CASE APPLICATIONS FOR HEARING

400.1 The Director shall review for completeness every application filed with the Commission within five (5) days of its receipt.

400.2 Upon completing the review of an application, the Director shall notify the applicant in writing of any deficiency. The notice shall list the information necessary to make the application complete and the date the information must be received, which shall not be less than five (5) days after the date of notice. If the applicant fails or refuses to correct the deficiencies in the application by the date stated, the Director shall not accept the application for filing.

400.3 As soon as an application is accepted for filing by the Director, the Director shall place a copy of the application in the public record of the Commission and refer a copy to the Office of Planning and the District Department of Transportation.

400.4 Applications for design review, campus plan/further processings, and medical campus plans shall be immediately scheduled for hearing consistent with the notice provisions of this chapter.

400.5 For all other types of applications, the Commission, at a public meeting, shall determine if the application should be scheduled (setdown) for a hearing. The Office of Planning shall review each such application and submit a report and recommend whether the application should be set down for a hearing.

400.6 The report of the Office of Planning shall be in writing and filed with the Director at least ten (10) days prior to a meeting scheduled by the Commission pursuant to Subtitle Z § 103.1.

400.7 For contested cases enumerated under Subtitle Z § 400.5, the Director shall also refer a copy of the application to the affected ANC, along with an ANC Setdown Form, which the affected ANC may submit to provide feedback on whether the matter should be set down for hearing.

400.8 The ANC Setdown Form shall be filed with the Director no later than thirty (30) days after the date the application is referred.

400.9 A public meeting to consider setting down a contested case (other than a map amendment) shall not occur less than thirty-five (35) days after the application is filed.

400.10 If the applicant seeks to waive the thirty-five (35) day period between filing and a public meeting to consider setdown, it shall obtain the consent of the Office of Planning and the affected ANC, and provide such proof to the Commission.

400.11 After considering the application, the recommendations of the Office of Planning, and any ANC Setdown Form filed, the Commission may determine whether to:

(a) Schedule the application for a hearing;

(b) Continue the setdown to permit the applicant to provide further information or modify its design;

(c) Dismiss the application because of a technical or procedural defect or to allow for needed modifications to be made; or

(d) Deny the application on its merits.

400.12 The concurrence of at least three (3) of the five (5) Commission members shall be required to take any of the actions enumerated in Subtitle Z § 400.11. The Commission may not dismiss or deny an application without first allowing the applicant or its representative, if present, an opportunity to be heard.

400.13 If the matter is denied or dismissed without a public hearing, the Commission shall issue a denial or dismissal order, copies of which shall be published in the *D.C. Register*, served on the applicant, and made available on the Office of Zoning website. The order shall include a statement of reasons for the denial or dismissal.

400.14 If the Commission dismisses an application without prejudice because of the need to modify the application, the order shall also state the type of modification the Commission considers appropriate.

400.15 An applicant granted a public hearing shall be so notified of the action in writing, and such notice shall be entered into the record.

400.16 After setdown, the hearing date will be scheduled in a timely manner, but only after the applicant submits its supplemental filing, and the appropriate hearing fee has been paid, as provided in Subtitle Z, Chapter 16.

401 SUPPLEMENTAL FILINGS

401.1 Prior to the scheduling of a public hearing, the applicant shall file with the Director ten (10) copies of architectural drawings and two (2) paper copies of all other information, and an electronic copy through the OZ electronic case management system, of the following:

(a) Any additional information, reports, or other materials specified by the Commission at the time the matter was set down for public hearing; or, if

the Commission requested the applicant to make any changes in the application or petition, the updated application and supportive material;

(b) A list of those persons the applicant intends to call as witnesses;

(c) A written summary of the testimony of all witnesses, and a complete and professional resume for any expert who may be called to testify at the public hearing;

(d) Any additional information, reports, or other materials the applicant may wish to introduce;

(e) Reduced plans, which plans shall be no larger than the tabloid size of eleven inches (11 in.) by seventeen inches (17 in.), that show the "north arrow" reading up, and that include a bar scale;

(f) A list of maps, plans, or other documents that are readily available to the general public and that will be offered into evidence; and

(g) An estimate of the time required for the presentation of the applicant's case, subject to the decision of the presiding officer as provided in Subtitle Z § 408.2.

401.2 If the application proffers any public benefit that would require the agreement of or administration by any public agency or private entity, the applicant shall file a memorandum of understanding (MOU) that has been executed by the applicant and the public agency or private entity to agree to or administer the benefit.

401.3 The supplemental information shall also include:

(a) The names and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property; provided, however, in the case of a residential condominium or cooperative with twenty-five (25) or more dwelling units, mailed notice may be provided to the board of directors or to the association of the condominium or cooperative that represents all of the owners of all such dwelling units; and

(b) The name and address of each person having a lease with the owner for all or part of any building located on the property involved in the application.

401.4 The Director shall not issue any notice of public hearing until the applicant certifies in writing that all of the requirements of this section have been complied with.

401.5 No application shall be modified less than twenty (20) days prior to the public hearing.

401.6 Upon motion by the applicant and for good cause shown, the Commission may elect to waive Subtitle Z § 401.5 and permit modification of the application at the public hearing.

401.7 If the supplemental report includes a report by a transportation consultant or expert, the applicant shall provide a copy of the report to the District Department of Transportation on the same day of filing with Office of Zoning.

401.8 No later than thirty (30) days before the date of the public hearing on the application, the applicant shall file with the Commission any traffic or transportation reports to be submitted in support of the application. All such reports shall include the resume of the expert who prepared the report. At or before the time of filing the traffic or transportation report with the Commission, the applicant shall serve a copy of the report on the affected ANC, the Office of Planning, and the District Department of Transportation.

402 PUBLIC NOTICE REQUIREMENTS

402.1 Not less than forty (40) days before the public hearing on an application, the Director shall give notice of public hearing by:

(a) Publishing the notice of public hearing in the *D.C. Register*;

(b) Providing a copy of the notice of public hearing to the applicant;

(c) Providing a copy of the notice of public hearing to the affected ANC and to any other ANC that is within two hundred feet (200 ft.) of the property involved in the application;

(d) Providing a copy of the notice of public hearing to owners of all property within two hundred feet (200 ft.) of the property included in the application; provided, however, in the case of a residential condominium or cooperative with twenty-five (25) or more dwelling units, notice may be provided to the board of directors or to the association of the condominium or cooperative that represents all of the owners of all such dwelling units;

(e) Providing a copy of the notice of the public hearing to each person having a lease with the owner for all or part of any building located on the subject property;

(f) Providing a copy of the notice of public hearing to the Office of Planning and all other appropriate government agencies;

(g) Providing a copy of the notice of public hearing to the councilmember for the ward within which the property is located; and

(h) Posting a copy of the notice of the public hearing on the Office of Zoning's website.

402.2 Each notice of public hearing shall include:

(a) The case number of the application;

(b) The name of the applicant;

(c) A general summary of the application under consideration;

(d) The square(s) and lot(s) and/or street address of the property involved;

(e) The location, time, and date of the public hearing;

(f) The number of the affected ANC(s); and

(g) The requirements for participation as a party.

402.3 When a contested case application is requested by a property owner for the property owned, the applicant shall give additional notice of the public hearing by posting the property with notice of hearing in a form that is prescribed by the Director at least forty (40) days in advance of the public hearing.

402.4 The notice required by Subtitle Z § 402.3 to be placed upon an applicant's property shall be posted in plain view of the public at each street frontage on the property and on the front of each existing building located on the subject property.

402.5 The notice required by Subtitle Z § 402.3 shall be removed by the applicant within two (2) days after the conclusion of the public hearing.

402.6 The notice required by Subtitle Z § 402.3 shall be supplied by the Director indicating:

(a) The case number of the application;

(b) The name of the applicant;

(c) The nature of the application;

(d) The square(s) and lot(s) and/or street address of the property involved; and

(e) The location, time, and date of the public hearing.

402.7 The Commission may give any additional notice of the public hearing as it deems necessary or appropriate.

402.8 When required to post any notice pursuant to Subtitle Z § 402.3, the applicant shall complete and file with the Director the completed affidavit of posting form,

demonstrating compliance with Subtitle Z § 402.3. This affidavit shall be filed not less than thirty (30) days prior to the public hearing.

402.9 The applicant shall attach to the affidavit a photograph of each sign after posting and as viewed by the public, identifying the street frontage or other location of each sign.

402.10 The applicant shall maintain the posting by checking the signs at least once per week and reposting when necessary. The applicant shall file an affidavit of maintenance of the posting between two (2) and six (6) days prior to the public hearing.

402.11 Notice of the public hearing pursuant to Subtitle Z § 402.1 shall not be a jurisdictional prerequisite to action by the Commission. It shall be intended to offer supplemental notice only.

402.12 A technical defect in the notice of public hearing that is minor in nature shall not deprive the Commission of jurisdiction over the case. If a defect in the notice is alleged and proven, the Commission may determine whether to postpone, continue, or hold the public hearing as scheduled based on the following considerations:

(a) The nature and extent of the actual notice received by the parties and the public from all sources;

(b) Attendance, or lack thereof, at the public hearing; and

(c) The nature and extent of the construction and/or use involved in the application.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

403 PARTIES: GENERAL GUIDELINES

403.1 This section and Subtitle Z § 404 only apply to contested case applications because parties are permitted to participate in those proceedings. These provisions do not apply to rulemaking proceedings where no parties are allowed.

403.2 The use of the term “person” includes entities.

403.3 All persons may present testimony before the Commission, but parties may also present witnesses, cross-examine witnesses, file pleadings and proposed orders, receive pleadings and proposed orders filed by other parties, and receive the final order issued by the Commission.

403.4 Being a party is not a pre-requisite to filing a petition to review a Commission decision with the District of Columbia Court of Appeals.

403.5 In an application for a contested case before the Commission, including, but not limited to, cases described in Subtitle Z § 201.2, the following persons automatically have party status:

(a) The applicant; and

(b) The ANC within which the property that is the subject of the application is located; except that if the subject property is located on a street that serves as a boundary line between two (2) ANC's, both ANCs are automatic parties.

403.6 In a contested case proceeding before the Commission, a party shall be afforded all the procedural rights provided in this chapter, including the right to receive a copy of any:

(a) Service by any other party in the case of documents at the same time or before the document is filed with the Commission; and

(b) Written notice of any decision or order entered in the case.

403.7 In all contested case proceedings before the Commission, a party may:

(a) Submit motions and requests to the Commission, and respond to any motions or requests submitted to the Commission by others; provided that the record is open;

(b) Present witnesses in support of the party's position;

(c) Cross-examine all other parties and persons testifying in the case;

(d) Submit proposed findings of fact and conclusions of law; and

(e) Exercise all other procedural rights provided in this chapter.

404 REQUESTING PARTY STATUS

404.1 Except for the applicant and the affected ANC, to participate as a party in a proceeding before the Commission, a person seeking such status shall file with the Commission a Request for Party Status on the form and in the manner that the Director may prescribe. The person requesting party status and their authorized representatives, if any, shall provide the following information in their initial filing with the Commission:

(a) Name, mailing address, telephone number, and e-mail address;

(b) An identification of the application by number, the applicant's name, and the address of the property that is the subject of the application;

(c) A request to appear and participate as a party;

(d) Whether the person will appear as a proponent or opponent of the application;

(e) If the person will appear through legal counsel or other authorized representation and, if so, the name and address of the legal counsel or other authorized representation;

(f) If the person requesting party status is not an individual, the following shall be provided:

(1) Evidence that the entity requesting party status has authorized the entity's participation in the proceeding; and

(2) Evidence that the entity requesting party status has designated a specific officer, employee, or agent to act on its behalf and bind entity in the proceeding;

(g) A list of witnesses who will testify on the person's behalf, a written summary of the testimony of all witnesses, and a complete and professional resume for any expert who may be called to testify at the public hearing; and

(h) A written statement setting forth why the person should be granted party status, including reference to the following:

(1) The property owned or occupied by the person, or in which the person has an interest, that will be affected by the action requested of the Commission;

(2) The legal interest the person has in the property, such as owner, tenant, trustee, or mortgagee;

(3) The distance between the person's property and the property that is the subject of the application before the Commission;

(4) The environmental, economic, social, or other impacts likely to affect the person and/or the person's property if the action requested of the Commission is approved or denied; and

(5) An explanation of how the person's interests as identified in response to paragraph (4) would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public.

404.2 The evidence required in Subtitle Z § 404.1(f) may consist of a resolution of the person's board of directors; a copy of the by-laws provision authorizing the particular officer, employee, or agent to represent the person in such proceedings; a letter signed by all the members; or similar proof satisfactory to the Commission.

404.3 The Commission shall determine whether to grant or deny party status requests at the opening of the first public hearing on the application, except the Commission may consider a party status request at a public meeting scheduled at least fourteen (14) days prior to the public hearing if the person requesting party status requests advance consideration on the Request for Party Status form.

404.4 A Request for Party Status that is to be considered at a public hearing shall be filed with the Commission not less than fourteen (14) days prior to the public hearing.

404.5 A Request for Party Status that is requested to be considered at a public meeting shall identify the public meeting date sought and shall be filed with the Commission not less than fourteen (14) days prior to that date.

404.6 If there is no public meeting scheduled within thirty (30) days of the public hearing, the person may request that the Chairman schedule a special public meeting to hear the party status request.

404.7 At or before the time of filing the request, the person requesting party status shall serve a copy of the request on the applicant and the affected ANC.

404.8 At the time of the filing request, the person requesting party status shall file an affidavit of service to all parties with the Commission;

404.9 Any opposition to a party status request by the applicant or affected ANC shall be filed within seven (7) days following the date by which it was served. An applicant's or affected ANC's failure to file a timely opposition shall be deemed signifying no objection to the Request for Party Status.

404.10 Replies to any opposition by the person requesting party status will not be accepted into the record.

404.11 A person requesting party status must be present at the public hearing or meeting at which the request is being considered; however, the attendance of the applicant or affected ANC at the public meeting is discretionary. Failure of the person or their representative to appear shall be deemed to constitute the withdrawal of the party status request.

404.12 During the portion of a public meeting in which a party status request is being considered, the Commission may call forward the person making the request, as well as the applicant or affected ANC, if an objection was made timely pursuant

to Subtitle Z § 404.9. The Commission may put questions to the person making the request and the applicant or affected ANC and to hear argument on the issue.

404.13 The Commission shall determine who will be recognized as a party. In so determining, the Commission shall consider whether the provisions of Subtitle Z § 404.1(f) have been complied with and whether the specific information presented qualifies the person as a party.

404.14 The Commission shall grant party status only if the person requesting party status has clearly demonstrated that the person's interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public.

404.15 No person may request reconsideration of the denial of their party status request.

404.16 If a Request for Party Status is denied, another Request for Party Status may not be made.

404.17 If a person granted party status no longer wishes to participate in the application, the person or their representative shall file written notice of that intent, which shall be served on the other parties. Upon the filing of such notice, the person shall no longer be considered a party.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

405 REFERRALS TO AND REPORTS OF PUBLIC AGENCIES

405.1 For applications for which setdown is required, as soon as an application is accepted by the Director, the matter shall be referred to the Office of Planning, who shall coordinate with other public agencies that may be requested to provide information and assistance, depending on the nature of the case.

405.2 As to those applications for which set down is not required, as soon as an application is accepted for filing by the Director, a copy of the application shall be referred to the Office of Planning and other appropriate agencies for review and comment. A copy shall also be sent for review and comment to:

(a) The National Capital Planning Commission of:

(1) All Subtitle K, Chapter 2 applications;

(2) Those applications for approval pursuant to Subtitle K § 512.1(a) and (d);

(3) The portion of the application for Master Plan approval relating to the single building south of H Street pursuant to Subtitle K § 316.1;

(4) Those applications for stage 1 or consolidated approval for any part of the single building south of H Street pursuant to Subtitle K § 317.1; and

(5) Those applications for approval pursuant to Subtitle I § 618;

(b) The Capitol Police Board for those applications for approval pursuant to Subtitle K § 515.4; and

(c) The District Department of Transportation for those applications for special exception approval pursuant to Subtitle K § 412.

405.3 The Office of Planning shall coordinate review of the case and prepare a preliminary setdown report that contains its written recommendations pertaining to the project. The setdown report shall include any written reports submitted by all relevant public agencies including, but not limited to, the District Department of Transportation, Department of Housing and Community Development (DHCD), and, if a historic district or historic landmark is involved, the State Historic Preservation Officer (SHPO).

405.4 The written reports and recommendations requested by the Commission shall be filed by the Office of Planning with the Director at least ten (10) days in advance of the public hearing for inclusion in the public record.

405.5 For a design review case, the Office of Planning shall report on the:

(a) Compatibility of the proposed development with the Comprehensive Plan; and

(b) The quality of the urban design and site design of the proposed development, with emphasis on the design review evaluation standards in Subtitle X, Chapter 6.

405.6 For a planned unit development (PUD) case, the Office of Planning shall report on the:

(a) Suitability of the site for use as a PUD;

(b) Appropriateness, character, scale, mixture of uses, and design of the uses proposed for the proposed development, and other identifiable public benefits;

(c) Compatibility of the proposed development with the Comprehensive Plan and the goals of the PUD process;

(d) The quality of the urban design and site design of the proposed development;

(e) Issues or concerns raised by the affected ANC or community members; and

(f) Conformance with the PUD evaluation standards.

405.7 For a map amendment case, the Office of Planning shall report on the:

(a) Compatibility of the proposed zoning with the Comprehensive Plan and other approved plans; and

(b) Issues or concerns raised by the affected ANC(s) or community members.

405.8 The Commission shall give "great weight" to the written report of the Office of Planning pursuant to D.C. Official Code § 6-623.04.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

406 ADVISORY NEIGHBORHOOD COMMISSION (ANC) REPORT

406.1 This section applies to an affected ANC.

406.2 The Commission shall give "great weight" to the written report of the ANC, pursuant to § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, as amended, that is received at any time prior to the date of a Commission meeting to consider final action including any continuation thereof on the application. All written reports shall contain the following:

(a) The case name and number;

(b) The date the public meeting of the ANC to consider the application occurred;

(c) A statement that proper notice of that public meeting was given by the ANC;

(d) The number of members of the ANC that constitute a quorum and the number of members present at the public meeting;

(e) The issues and concerns of the ANC about the application, as related to the standards against which the application shall be judged;

(f) The recommendation, if any, of the ANC as to the disposition of the application;

(g) The outcome of the vote on the motion to adopt the report to the Commission;

(h) The name of the person who is authorized by the ANC to present the report; and

(i) The signature of the ANC chairperson or vice-chairperson.

406.3 If an ANC wishes to participate in the hearing, it must file its written report with the Commission at least seven (7) days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

406.4 The oral testimony of the ANC representative shall not be given great weight, unless accompanied within seven (7) days by written documentation approved by the respective ANC which supports the testimony.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

407 MOTIONS PROCEDURE

407.1 A motion is a request by a party or parties for the Commission to take an action.

407.2 Unless made during a hearing, all motions shall be in writing. The first page of every motion shall contain the party's name, the case number, and the name of the presiding officer, if known. Every motion shall state the legal and factual reasons for the motion and the action requested of the Commission.

407.3 At the time of filing any motion, a party must serve all other parties.

407.4 Unless otherwise provided by these rules or ordered by the presiding officer, all parties opposing a motion shall have seven (7) days from the service of the motion to file and serve a response.

407.5 The presiding officer may decide any procedural motion including motions to continue without holding a hearing.

408 PUBLIC HEARING PROCEDURES

408.1 The presiding officer shall have authority to:

(a) Call the hearing to order;

(b) Consider preliminary matters, including, but not limited to, party status requests, motions, and qualifying expert witnesses;

(c) Conduct the hearing;

(d) Rule upon offers of proof and receive relevant evidence;

(e) Exclude unduly repetitious or irrelevant testimony, and permit a witness to adopt the prior testimony of another witness;

(f) Adjourn a hearing and establish the date when the hearing will be continued;

(g) Close the hearing and record;

(h) Take action to maintain decorum and order; and

(i) Take any other action authorized by this title or necessary under this chapter.

408.2 Except as provided in Subtitle Z § 408.4, the applicant and all parties (except an affected ANC) in support shall collectively have a maximum of sixty (60) minutes, exclusive of cross-examination, to present testimony. All parties (except an affected ANC) in opposition shall collectively have an amount of time equal to that of the applicant and parties in support, but in no case, more than sixty (60) minutes collectively, exclusive of cross-examination, to present testimony in opposition.

408.3 Individuals and organization representatives in support, in opposition, and those undeclared shall have a maximum of three (3) and five (5) minutes respectively to present testimony.

408.4 The Commission may grant additional or lesser time than that allowed under Subtitle Z §§ 408.2 and 408.3 to an applicant, individual, organization representative, or party, to present a case, provided that the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

408.5 Nothing herein shall prohibit the Commission from placing reasonable restrictions on cross-examination, including limitations on the scope of cross-examination, by the applicant or parties in support or opposition.

408.6 A party may cross-examine any other party, individual, or organization representative, except the Commission; provided, that the presiding officer may rule a question out of order when it is irrelevant, immaterial, or unduly repetitious, or otherwise outside of the scope of cross-examination.

408.7 Evidence shall be taken in conformity with D.C. Official Code § 2-509(b) (2012 Repl.). Pursuant to D.C. Official Code § 2-509(b) (2012 Repl.), any oral and any documentary evidence may be received, but the Commission shall exclude irrelevant, immaterial, and unduly repetitious evidence. Every party shall have the right to present in person or by counsel its case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Where any decision of the Commission in a contested case rests on official notice of a material fact not appearing in the evidence in the record, any party to such case shall on timely request be afforded an opportunity to show the contrary.

408.8 The applicant shall carry the burden of justifying the proposal. Failure of groups or persons to appear in opposition shall not relieve the applicant of the responsibility of demonstrating the merits of the application.

408.9 The order of procedure for presenting evidence at the hearing shall be as follows:

(a) Call to order and opening statement by the presiding officer;

(b) Consideration of preliminary matters, including, but not limited to, party status requests, motions, and qualifying expert witnesses;

(c) Applicant's case;

(d) Reports or statements by the Office of Planning (OP) and other government agency representatives, if any;

(e) Affected ANC(s);

(f) Parties in support of the application;

(g) Individuals and organization representatives in support of the application;

(h) Parties in opposition to the application;

(i) Individuals and organization representatives in opposition to the application;

(j) Individuals and organization representatives who are undeclared with respect to the application;

(k) Rebuttal by applicant; and

(l) Closing statement by applicant.

408.10 If surprise to the applicant or to a party in a contested case is clearly shown and the inability to proceed is demonstrated, a hearing may be adjourned to allow the applicant or party sufficient time to offer rebuttal evidence. This evidence shall be filed with the Director at least fourteen (14) days before the hearing is resumed.

408.11 The Commission may close the record at the end of a hearing and vote either to deny an application or to grant an application not involving a map amendment or schedule the case for final action at a public meeting. If the application is for a map amendment, including a map amendment proposed in association with a planned unit development, the Commission may deny the application, take proposed action on the application, or schedule the application for proposed action at a public meeting.

408.12 No decision or order of the Commission on an application shall be made except upon the exclusive record of the proceedings before the Commission.

408.13 All testimony shall be provided under oath or affirmation.

CHAPTER 5 PRE-HEARING AND HEARING PROCEDURES: RULEMAKING CASES

500 SETDOWN PROCEDURES: SCHEDULING RULEMAKING CASE PETITIONS FOR HEARING

500.1 The Director shall review for completeness every petition filed with the Commission within five (5) days of its receipt.

500.2 Upon completing the review of a petition, the Director shall notify the petitioner in writing of any deficiency. The notice shall list the information necessary to make the petition complete and the date the information must be received, which shall not be less than five (5) days after the date of notice. If the petitioner fails or refuses to correct the deficiencies in the petition by the date stated, the Director shall not accept the petition for filing.

500.3 As soon as a petition is accepted for filing by the Director, the Director shall place a copy of the petition in the public record of the Commission and refer a copy to the Office of Planning and the District Department of Transportation.

500.4 Notwithstanding the filing of a petition, the Commission may, on its own motion, review and determine the designation of such case as a contested case or rulemaking case based on the standards contained in Subtitle Z §§ 201.2 and 201.5.

500.5 For all petitions, the Commission, at a public meeting, shall determine if the petition should be scheduled (setdown) for a hearing. The Office of Planning shall review and recommend whether the petition should be set down for a hearing.

500.6 The report of the Office of Planning shall be in writing and filed with the Director at least ten (10) days prior to a meeting scheduled by the Commission pursuant to Subtitle Z § 103.1.

500.7 The Director shall also refer a copy of the petition to the affected ANC, along with an ANC Setdown Form, which the affected ANC may submit to provide feedback on whether the petition should be set down for hearing.

500.8 The ANC Setdown Form shall be filed with the Director no later than thirty (30) days after the date the petition is referred.

500.9 After considering the petition, the recommendations of the Office of Planning, and the ANC Setdown Form of the affected ANC, where appropriate, the Commission may determine at a public meeting to dismiss the petition or set it down for public hearing or other proceeding.

500.10 The concurrence of at least three (3) of the five (5) Commission members shall be required to deny or dismiss a petition without a hearing, as well as to set a matter down for a public hearing or other proceeding.

500.11 If the matter is denied or dismissed without a public hearing, the Commission shall issue a denial or dismissal order, copies of which shall be published in the *D.C. Register*, served on the petitioner, and made available on the Office of Zoning website. The order shall include a statement of reasons for the denial or dismissal.

500.12 If the Commission dismisses a petition without prejudice because of the need to modify the petition, the order shall also state the type of modification the Commission considers appropriate.

500.13 If the matter is set down for a public hearing, the Commission shall, at the same meeting, confirm whether the matter will be heard as a contested or rulemaking case according to the standards in Subtitle Z §§ 201.2 and 201.5 and provide that the notice of hearing will state such classification.

500.14 A petitioner granted a public hearing and other processing shall be so notified on the record.

500.15 After setdown, the hearing date will be scheduled in a timely manner, but only after the petitioner submits its supplemental filing, the appropriate hearing fee has been paid, and it is deemed complete by the Director.

500.16 In a rulemaking case before the Commission, including, but not limited to, those cases described in Subtitle Z § 201.5, there are no parties.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

501 SUPPLEMENTAL FILINGS

501.1 Prior to the scheduling of a public hearing, the petitioner shall file with the Director ten (10) copies of architectural drawings and two (2) paper copies of other information, and an electronic copy through the Office of Zoning electronic case management system, of the following:

(a) Any additional information, reports, or other materials specified by the Commission at the time the matter was set down for public hearing; or, if the Commission requested the petitioner to make any changes in the petition, the updated petition and supportive material;

(b) A list of witnesses who are prepared to testify on the petitioner's behalf;

(c) A written summary of testimony of all witnesses or of the written report, and a complete and professional resume for any expert who may be called to testify at the public hearing, or made available to answer questions;

(d) Any additional information, reports, or other materials the petitioner may wish to introduce;

(e) Reduced plans, which plans shall be no larger than the tabloid size of eleven inches (11 in.) by seventeen inches (17 in.), that show the "north arrow" reading up, and that include a bar scale;

(f) A list of maps, plans, or other documents that are readily available to the general public and that will be offered into evidence; and

(g) An estimate of the time required for the presentation of the petitioner's case, subject to the decision of the presiding officer as provided in Subtitle Z § 408.2.

501.2 The Director shall not issue any notice of public hearing until the petitioner certifies in writing that all of the requirements of this section have been complied with.

501.3 If the supplemental report includes a report by a transportation consultant or expert, the petitioner shall provide a copy of the report to the District Department of Transportation on the same day of filing with the Office of Zoning.

501.4 No later than thirty (30) days before the date of the public hearing on the petition, the petitioner shall file with the Commission any traffic or transportation reports to be submitted in support of the petition. All such reports shall include the resume of the expert who prepared the report. At or before the time of filing the traffic or transportation report with the Commission, the petitioner shall serve a copy of the report on the affected ANC, the Office of Planning, and the District Department of Transportation.

502 PUBLIC NOTICE REQUIREMENTS

502.1 Notice of a rulemaking case hearing shall be given by the Director at least forty (40) days in advance of the public hearing by:

(a) Publishing the notice of public hearing in the *D.C. Register*;

(b) Posting a copy of the notice of the public hearing on the Office of Zoning's website; and

(c) Providing a copy of the notice of the public hearing to the appropriate ANC(s).

502.2 Each notice of public hearing shall include:

(a) The case number of the petition;

(b) A general summary of the petition under consideration;

(c) The square(s) and lot(s), and/or street address of the property involved; if any;

(d) The location, time, and date of the public hearing;

(e) The name of the petitioner;

(f) The action requested of the Commission; and

(g) That the proceedings will be conducted pursuant to Subtitle Z, Chapter 5.

502.3 For a map amendment involving property owned by the petitioner, the petitioner shall give additional notice of the public hearing by posting the property with a notice of public hearing at least forty (40) days in advance of the public hearing.

502.4 The notice required by Subtitle Z § 502.3 is to be placed in plain view of the public at each street frontage of each square affected by the proposed map amendment, with a notice of public hearing in a form prescribed by the Director pursuant to Subtitle Z § 502.6.

502.5 The notice required by Subtitle Z § 502.3 shall be removed by the petitioner within two (2) days after the conclusion of the public hearing.

502.6 The notice required by Subtitle Z § 502.3 shall be supplied by the Director indicating:

(a) The case number of the petition;

(b) The name of the petitioner;

(c) The nature of the petition;

(d) The square(s) and lot(s) and/or street address of the property involved; and

(e) The location, time, and date of the public hearing.

502.7 The Commission may give any additional notice of the public hearing as it deems necessary or appropriate.

502.8 When required to post any notice pursuant to Subtitle Z § 502.3, the petitioner shall complete and file with the Director the completed affidavit of posting form, demonstrating compliance with Subtitle Z §§ 502.3 and 502.4. This affidavit shall be filed not less than thirty (30) days prior to the public hearing.

502.9 The petitioner shall maintain the posting by checking the signs at least once per week and reposting when necessary. The petitioner shall file an affidavit of maintenance of the posting between two (2) and six (6) days prior to the public hearing.

502.10 If a failure of notice under Subtitle Z § 502.3 is alleged and proven, the Commission may consider all the surrounding circumstances, including the extent of actual notice received by the public from all sources, attendance at the public hearing, and the nature and extent of the proposed construction and use under the application, if approved. On the basis of these considerations, the Commission may determine whether the public hearing will be postponed, continued, or held as scheduled.

503 [RESERVED]

504 REPORTS OF PUBLIC AGENCIES

504.1 As soon as a petition is set down for a public hearing, the matter shall be referred to the Office of Planning, who shall coordinate with other public agencies that may be requested to provide information and assistance, depending on the nature of the case.

504.2 The Office of Planning shall coordinate review of the case and prepare a preliminary setdown report that contains its written recommendations pertaining to the project. The preliminary setdown report shall include any written reports submitted by all relevant public agencies including, but not limited to, the District Department of Transportation, Department of Housing and Community Development (DHCD), and, if a historic district or historic landmark is involved, the State Historic Preservation Officer (SHPO).

504.3 The written reports and recommendations requested by the Commission shall be filed by the Office of Planning with the Director at least ten (10) days in advance of the public hearing for inclusion in the public record.

504.4 For a map amendment case, the Office of Planning shall report on the:

(a) Compatibility of the proposed zoning with the Comprehensive Plan and other approved plans; and

(b) Issues or concerns raised by the affected ANC(s) or community members.

504.5 For a text amendment case, if the Office of Planning fails to transmit its opinion or report to the Commission within a period of forty-five (45) days from the date of the submission, the Commission may proceed to schedule a public hearing on the proposed amendment.

504.6 The Commission shall give “great weight” to the written report of the Office of Planning pursuant to D.C. Official Code § 6-623.04.

505 ADVISORY NEIGHBORHOOD COMMISSION (ANC) REPORT

505.1 The Commission shall give "great weight" to the written report of the ANC(s), pursuant to § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, as amended, that is received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the petition. All written reports shall contain the following:

(a) The case name and number;

(b) The date the public meeting of the ANC to consider the petition occurred;

(c) A statement that proper notice of that public meeting was given by the ANC;

(d) The number of members of the ANC that constitute a quorum and the number of members present at the public meeting;

(e) The issues and concerns of the ANC about the petition, as related to the standards against which the petition shall be judged;

(f) The recommendation, if any, of the ANC as to the disposition of the petition;

(g) The outcome of the vote on the motion to adopt the report to the Commission;

(h) The name of the person who is authorized by the ANC to present the report; and

(i) The signature of the ANC chairperson or vice-chairperson.

505.2 The oral testimony of the ANC representative shall not be given great weight, unless accompanied within seven (7) days by written documentation approved by the respective ANC, which supports the testimony.

506 PUBLIC HEARING PROCEDURES

506.1 Any individual or organization representative may appear at a hearing in a rulemaking case proceeding, and may present, within the time limits determined by the Commission, evidence, testimony, or argument that is relevant and not unduly repetitious pursuant to Subtitle Z § 408.3.

506.2 There are no parties in a rulemaking case proceeding.

506.3 The presiding officer shall have authority to:

(a) Call the hearing to order;

(b) Consider preliminary matters, including, but not limited to, motions, and qualifying expert witnesses;

(c) Conduct the hearing;

(d) Rule upon offers of proof and receive relevant evidence;

(e) Exclude unduly repetitious or irrelevant testimony, and permit a witness to adopt the prior testimony of another witness;

(f) Adjourn a hearing and establish the date when the hearing will be continued;

(g) Close the hearing and record;

(h) Take action to maintain decorum and order; and

(i) Take any other action authorized by this title or necessary under this subtitle.

506.4 The order for presenting evidence and arguments at the public hearing for a rulemaking case proceeding shall be as follows:

(a) Call to order and opening statement by the presiding officer;

(b) Consideration of preliminary matters, including, but not limited to, motions and qualifying expert witnesses;

(c) Petitioner's case;

(d) Reports or statements by the Office of Planning and other government agency representatives, as needed;

(e) Affected ANC(s);

(f) Individuals and organization representatives in support of the petition;

(g) Individuals and organization representatives in opposition to the petition; and

(h) Individuals and organization representatives who are undeclared with respect to the petition.

506.5 The Commission may close the record at the end of a hearing and vote either to deny the petition or take proposed action to grant the petition. Alternatively, the Commission may schedule the case for proposed action at a public meeting.

506.6 No decision or order of the Commission on a petition shall be made except upon the exclusive record of the proceedings before the Commission.

506.7 All testimony shall be provided under oath or affirmation.

CHAPTER 6 POST-HEARING PROCEDURES

600 DISPOSITION OF CASE BY WITHDRAWAL OR DISMISSAL

600.1 An applicant or petitioner may withdraw an application or petition at any time prior to advertisement of the hearing.

600.2 Following advertisement, an application or petition may be withdrawn only with the consent of the Commission.

600.3 An applicant or petitioner may withdraw, respectively, an application or petition at any time prior to the issuance of the Commission's written final decision and order, subject to the following conditions:

(a) The applicant or petitioner shall file a written statement with the Commission withdrawing the application or petition;

(b) Withdrawal shall not authorize the removal of any document or paper from the files of the Commission;

(c) The application or petition fee shall not be refunded upon withdrawal; and

(d) If an application or petition is withdrawn, a new application or petition shall not be accepted for filing for at least ninety (90) days after the date the written statement of withdrawal is filed.

600.4 The Commission may dismiss an application or petition for failure of the applicant or petitioner to comply with the procedural requirements of this chapter, as follows:

(a) Dismissal shall not authorize the removal of any document or paper from the files of the Commission;

(b) The application or petition fee shall not be refunded upon dismissal; and

(c) If an application or petition is dismissed before the close of the record, a new application or petition shall not be accepted for at least ninety (90) days after the date of the written order dismissing the application or petition.

600.5 No application or petition shall be dismissed on the grounds that the applicant or petitioner failed to comply with the provisions of this chapter unless, after due notice of the deficiency and expiration of a reasonable time as fixed by the Commission, the deficiency has not been corrected.

601 PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

601.1 In a contested case, the applicant is required to submit proposed findings of fact and conclusions of law to the Office of Zoning within such time as the presiding officer may direct, which in any event shall not be less than seven (7) days after the transcript of the public hearing is delivered to OZ, pursuant to Subtitle Z § 104.4. However, nothing prevents an applicant from submitting proposed findings of facts and conclusions of law earlier if it chooses to do so.

601.2 In a contested case, other parties who choose to submit findings of fact and conclusions of law shall do so in accordance with Subtitle Z § 601.1.

601.3 Each party shall serve any proposed findings of fact and conclusions of law on all other parties at the same time or before the proposed findings and conclusions are filed with the Commission. The parties shall also file a certificate of service.

601.4 If requested by the Commission, the applicant or other parties may submit revised findings of facts and conclusions of law, provided that no such filing may be made later than seven (7) days prior to the date the application is scheduled for final action.

601.5 Unless the Commission specifies otherwise in a proceeding, no responses shall be permitted to a party's proposed findings of fact and conclusions of law.

602 CLOSING THE RECORD

602.1 The record shall be closed at the end of the public hearing, unless the Commission makes a determination to keep the record open for a stated period for the receipt of specific exhibits, information, or legal briefs, as directed by the presiding officer.

602.2 In a contested case, an applicant that has been required by Subtitle Z § 401.2 to submit a memorandum of understanding, and who did not submit, during or before the hearing, a fully executed written agreement to implement that memorandum, shall submit a written agreement, executed by the applicant and all appropriate agencies or entities, prior to the scheduling of proposed action.

602.3 In a contested case, the Commission shall allow all parties to a case an opportunity to file written responses to any exhibits, information, or legal briefs submitted after the close of the public hearing. All responses shall be filed within seven (7) days following the date by which the exhibits, information, or legal briefs were due. Replies by other parties to the aforementioned responses will not be accepted into the record.

602.4 In a rulemaking case, the Commission may allow individuals an opportunity to file written responses to any exhibits, information, or legal briefs submitted within the period designated by the Commission.

602.5 Prior to taking final action in a contested case, the Commission may on its own motion re-open the record and require submission of additional materials or further hearing on designated issues before the Commission. Notice of a further hearing along with a designation of issues shall be forwarded to any party who participated in the earlier proceedings, or the party's authorized representative. Notice shall be given at least fourteen (14) days prior to the date set for further hearing.

602.6 Any supplemental material received by the Commission after the close of the record that bears upon the substance of the application or petition shall be returned by the Director and not accepted into the files of the Commission. However, if the materials are accompanied by a separate request to re-open the record, the request shall be accepted and presented to the Commission for consideration. The request must demonstrate good cause and the lack of prejudice to any party. Such requests may be granted by the presiding officer and, if granted, the supplemental materials shall be entered into the record.

603 PROPOSED ACTION

603.1 As used in this section, proposed action means a vote taken after a hearing by the Commission to:

(a) Publish a Notice of Proposed Rulemaking in the *D.C. Register* to permanently amend the zoning map or the text of the zoning regulations; or

(b) Refer the following types of cases to the National Capital Planning Commission (NCPC) for comment and review:

(1) Proposals to permanently amend the text of this title other than Subtitles A, Y, or Z or the zoning map; and

(2) Applications to grant a map amendment including an application related to a planned unit development application.

603.2 The Commission must take proposed action before taking final action to approve the cases described in Subtitle Z § 603.1.

603.3 Notice of the Commission's decision to take proposed action with respect to an application need not be issued.

603.4 A proposed action vote is not required to:

(a) Grant an application not listed in Subtitle Z § 603.1(b)(2);

(b) Amend the text of Subtitles A, Y, or Z;

(c) Amend the text of this title on an emergency basis pursuant to D.C. Official Code § 2-505(b); or

(d) Deny any application or petition.

603.5 A Commission vote to take any of the actions described in Subtitle Z § 603.4 is considered a final action.

604 FINAL ACTION AND FINAL ORDERS

604.1 In a rulemaking case to take final action to amend the text of this title, other than Subtitles A, Y, or Z or the Zoning Map, the Commission may proceed following receipt of the written report of the NCPC or after thirty (30) days from the date of the referral required under Subtitle Z § 603.1(b), whichever is sooner. In no case shall the Commission take final action sooner than the expiration of the period of public comment stated in the publication of the proposed rulemaking in the *D.C. Register*.

604.2 In a contested case, to take final action to approve a map amendment, including an amendment related to a PUD, or an air space development, the Commission may proceed following receipt of the written report of NCPC or after thirty (30) days from the date of the referral required under Subtitle Z § 603.1(b), whichever is sooner.

604.3 The Commission may proceed without a referral to or report from NCPC to:

(a) Deny any application or petition; or

(b) Approve any case for which NCPC referral is not specifically required under Subtitle Z § 603.1(b).

604.4 The final action of the Commission on an application or petition shall be in the form of a written order that shall be filed in the record.

604.5 A copy of the order shall be served on:

(a) The petitioner;

(b) The applicant and any other parties, if any;

(c) The affected ANC(s);

(d) The ANC Commissioner for the Single-Member District within which the property is located, if any; and

(e) The Councilmember for the Ward within which the property, if any, is located.

604.6 In a rulemaking case, orders shall be published in the *D.C. Register* as a notice of emergency or final rulemaking action, as is applicable.

604.7 In a contested case, the order shall be accompanied by findings of fact and conclusions of law unless the decision is not adverse to any party, in which case a summary form of order may be used. The order shall be published in the *D.C. Register*.

604.8 In a contested case, unless specifically stated otherwise, the term "applicant" in any condition of an order approving an application (including a modification) shall mean the person or entity then holding title to the subject property. If there is more than one (1) owner, the obligations under the order shall be joint and several. If a person or entity no longer holds title to the subject property, that party shall have no further obligations under the order; however, that party remains liable for any violation of any condition that occurred while an owner.

604.9 A written order setting forth a final action shall become final and effective upon publication in the *D.C. Register* unless the Commission specifies a later effective date.

604.10 A PUD associated rezoning shall become effective only upon completion of the process required by Subtitle X, Chapter 3 and upon filing with the District of Columbia a covenant ensuring compliance with the approved plans.

604.11 Approval of an application shall include approval of the plans submitted together with the application for the construction of a building or structure (or addition thereto) or the renovation or alteration of an existing building or structure, unless the Commission orders otherwise.

604.12 An application shall be required to carry out the construction, renovation, or alteration only in accordance with the plans approved by the Commission, unless the Commission orders otherwise.

604.13 If there is any ambiguity between the plans and the order, the written text of the order supersedes.

604.14 The Director or the Chairperson of the Commission is authorized to sign a final order that has been approved by a majority of the Commission.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

605 PROOF OF COMPLIANCE

605.1 If an application in a contested case is approved, the Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of the order approving the application at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

CHAPTER 7 APPROVALS AND ORDERS

700 RECONSIDERATION OF FINAL ORDER; REHEARING AFTER FINAL ORDER

700.1 Requests for reconsideration of an application or petition dismissed without a hearing shall not be entertained.

700.2 No application or petition essentially the same as that denied following a hearing shall be accepted for filing within one (1) year after the denial.

700.3 A motion for reconsideration, rehearing, or re-argument of a final order in a contested case under Subtitle Z § 201.2 may be filed by a party within ten (10) days of the order having become final. The motion shall be served upon all other parties.

700.4 The Commission shall not receive or consider any motion for reconsideration, rehearing, or re-argument of a final order in a contested case proceeding that is filed prior to the order having become final.

700.5 A motion for reconsideration, rehearing, or re-argument shall be filed on a form and in a manner as may be designated by the Director.

700.6 A motion for reconsideration, rehearing, or re-argument shall state specifically the respects in which the final order is claimed to be erroneous, the grounds of the motion, and the relief sought.

700.7 No request for rehearing shall be considered by the Commission unless new evidence is submitted that could not reasonably have been presented at the original hearing. If a rehearing is granted, notice shall be given as in the case of an original hearing.

700.8 Within seven (7) days after a motion for reconsideration, rehearing, or re-argument has been filed and served, any other party may file an answer in opposition to or in support of the motion. Replies by other parties to the aforementioned answers will not be accepted into the record.

700.9 Notice of a further hearing along with the designated issues shall be forwarded to any party who participated in the earlier proceedings, or the party's authorized representative. Notice shall be provided at least fourteen (14) days prior to the date set for further hearing.

700.10 Neither the filing nor the granting of the motion for reconsideration, rehearing, or re-argument shall stay a decision unless the Commission orders otherwise.

700.11 A motion for reconsideration, rehearing, or re-argument shall not be a prerequisite to judicial review.

700.12 A motion for reconsideration, rehearing, or re-argument of a final order in a rulemaking case shall not be accepted for filing or considered, except that a member of the Commission may initiate a motion for reconsideration up to thirty-five (35) days after the vote on the final action.

701 STAY OF FINAL DECISION AND ORDER

701.1 The Commission, on its own motion or the motion of a party or petitioner to the District of Columbia Court of Appeals, may order the effectiveness of a final decision and order of the Commission stayed, pending reconsideration or rehearing, *sua sponte* review, or appeal of the decision and order to the Court of Appeals.

701.2 Except for stays granted upon its own motion, the Commission shall grant a stay only upon finding all four of the following criteria are present:

(a) The party seeking the stay is likely to prevail on the merits of the motion for reconsideration or rehearing, or the appeal;

(b) Irreparable injury will result if the stay is denied;

(c) Opposing parties will not be harmed by a stay; and

(d) The public interest favors the granting of the stay.

702 VALIDITY OF APPROVALS AND IMPLEMENTATION

702.1 A first-stage or second-stage approval of a planned unit development (PUD) by the Commission shall be valid for a period of one (1) year, unless a longer period is established by the Commission at the time of approval, within which time application shall be filed for a building permit.

702.2 A contested case approval by the Commission shall be valid for a period of two (2) years from the effective date of the order granting the application, unless a longer period is established by the Commission at the time of approval, within which time application shall be filed for a building permit.

702.3 Construction shall start within three (3) years after the effective date of order granting the design review or second-stage PUD application, unless a longer period is established by the Commission at the time of approval.

702.4 In granting second-stage or design review approval, the Commission may specify that the project be built in stages and shall specify the timing of the stages.

702.5 Previous approval of an application shall not be a binding precedent on a new application.

702.6 If no application for a permit is filed, construction has not started within the period specified, or no extension is granted, the approval shall expire, the zoning shall revert to the pre-existing regulations and map.

702.7 Following approval of an application by the Commission, the applicant may file an application for a building permit with the proper authorities of the District of Columbia.

702.8 The Zoning Administrator shall not approve a permit application unless the plans conform in all respects to the plans approved by the Commission, as those plans may have been modified by any guidelines, conditions, or standards that the Commission may have applied. Nor shall the Zoning Administrator accept the establishment of an escrow account in satisfaction of any condition in the Commission's order approving the PUD.

702.9 For design review applications, approval shall be treated as a whole. Specific flexibility or special exception uses approved as part of the design review development shall not be bifurcated without approval of the Commission.

702.10 For PUD cases, the Zoning Administrator shall not approve a permit application unless the applicant has recorded a covenant in the land records of the District of Columbia by the owner or owners for the benefit of the District of Columbia, satisfactory to the Office of the Attorney General and the Zoning Administrator, which covenant will bind the owner and all successors in title to construct on and use the property only in accordance with the adopted orders, or amendments thereof, of the Commission.

702.11 The orders of the Commission issued in accordance with this chapter shall have all the force of this title, and violations shall be prosecuted in accordance with the provisions of Subtitle A, Chapter 3 of this title.

702.12 A text amendment approved by the Commission shall be effective upon issuance of a final order.

702.13 If applicable, the Office of Zoning shall make the referenced changes to the official Zoning Map and other public documents within thirty (30) days of the final action by the Commission.

703 CONSENT CALENDAR – MINOR MODIFICATION, MODIFICATION OF CONSEQUENCE, AND TECHNICAL CORRECTIONS TO ORDERS AND PLANS

703.1 This procedure shall allow the Commission, in the interest of efficiency, to make, without public hearing, minor modifications, modifications of consequence, and technical corrections to previously approved final orders and plans.

703.2 For purposes of this section, "minor modifications" shall mean modifications that do not change the material facts upon which the Commission based its original approval of the application or petition.

703.3 For the purposes of this section, the term "modification of consequence" shall mean a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance

703.4 Examples of modification of consequence include, but are not limited to, a proposed change to a condition in the final order, a change in position on an issue discussed by the Commission that affected its decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission.

703.5 For the purposes of this section, a "modification of significance" is a modification to a contested case order or the approved plans of greater significance than a modification of consequence. Modifications of significance cannot be approved without the filing of an application and a hearing pursuant to Subtitle Z § 704.

703.6 Examples of modifications of significance include, but are not limited to, a change in use, change to proffered public benefits and amenities, change in required covenants, or additional relief or flexibility from the zoning regulations not previously approved.

703.7 In a rulemaking, any person may request a minor modification or technical correction by filing a written request on the form provided by the Director together with a copy of the rulemaking order.

703.8 In a contested case, only the applicant may request a technical correction, minor modification, or a modification of consequence to the order approving its application or to the approved plans using the form provided by the Director.

703.9 An application for minor modification approval shall be made in an appropriate manner provided by the Director.

703.10 The applicant shall furnish eight (8) copies of architectural drawings and two (2) copies of all other information required by the form at the time of filing the application, including the following:

(a) A completed application form;

(b) The nature of, reason(s), and grounds for the minor modification, modifications of consequence, or technical correction; and

(c) A copy of any Commission final order, map, plan, or other action or relief proposed to be modified or corrected.

703.11 In a contested case, the filing of any modification request under this section shall not act to toll the expiration of the underlying order and the grant of any such modification shall not extend the validity of any such order.

703.12 The Commission, upon its own motion, may place a rulemaking matter on the Consent Calendar.

703.13 In a contested case, all written requests shall be served by the applicant on all parties in the original proceeding at the same time that the request is filed with the Office of Zoning. All written requests in a rulemaking case shall be served by the person requesting Consent Calendar placement upon the affected ANC.

703.14 The Director shall determine the appropriate form of public notice and any additional service, taking into account the nature of the request and any issues relating to efficiency and fairness.

703.15 In a contested case, within seven (7) days after a request to put a matter on the Consent Calendar for a minor modification or technical correction has been filed and served, any other party may file a response in opposition to or in support of the request. The responding party shall serve all other parties at the time that the response is filed with the Office of Zoning.

703.16 Responses for requests for modification of consequence shall be filed at the time specified by the Commission pursuant to Subtitle Z § 703.17.

703.17 The Commission may take one (1) of the following actions at a public meeting:

(a) At the request of a Commissioner, remove an item from the Consent Calendar;

(b) Grant or deny a request for a minor modification or technical correction; or

(c) For a modification of consequence:

(1) Determine that the request is actually for a modification of significance in which case an application for such a modification must be filed and a hearing held pursuant to Subtitle Z § 705; or

(2) Establish a timeframe for the parties in the original proceeding to file responses in opposition to or in support of the request and for the applicant to respond thereto; and schedule the request for deliberations.

703.18 Any matter that is removed from the Consent Calendar shall be acted upon by the Commission according to the applicable procedures contained in other sections of this chapter.

704 MODIFICATIONS OF SIGNIFCANCE

704.1 An application for a modification of significance shall be filed using the form provided by the Director.

704.2 If the applicant had first requested the modification as a modification of consequence, the application fee paid in that case shall be credited against the fee required.

704.3 If the application is for the modification of a second-stage PUD, it shall meet the requirements for, and be processed as, a second-stage PUD application.

704.4 The scope of a hearing conducted pursuant to this section shall be limited to impact of the modification on the subject of the original application, and shall not permit the Commission to revisit its original decision.

704.5 The filing of any modification request under this section shall not act to toll the expiration of the underlying order and the grant of any such modification shall not extend the validity of any such order.

705 TIME EXTENSIONS

705.1 The provisions of this section apply in their entirety to applications for design review and planned unit developments (PUDs).

705.2 An applicant may request an extension of the time periods of an order for good cause upon the filing of a written request, before the expiration of the approval, documenting the following:

(a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;

(b) There is no substantial change in any of the material facts upon which the Commission based its original approval of the application that would undermine the Commission's justification for approving the original application; and

(c) The applicant demonstrates with substantial evidence one (1) or more of the following criteria:

(1) An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;

(2) An inability to secure all required governmental agency approvals for a development by the expiration date of the order because of

delays in the governmental agency approval process that are beyond the applicant's reasonable control; or

(3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the order.

705.3 The Commission may at their sole discretion:

(a) Grant the extension for no more than two (2) years, subject to their determination that the applicant has sufficiently evidenced compliance with the criteria in Subtitle Z § 705.2; or

(b) Grant the extension for no more than two (2) years, subject to their determination that the applicant has sufficiently evidenced compliance with the above criteria but with applicable conditions that the Commission concludes are in the public interest and which will expire with the issuance of a certificate of occupancy for the project; or

(c) Deny the extension request.

705.4 Only one (1) extension may be requested for a design review development approval.

705.5 An applicant with an approved PUD may request no more than two (2) extensions. The second request for an extension may be approved for no more than one (1) year.

705.6 A request for an extension of an approval may not be filed more than six (6) months prior to the expiration of the order.

705.7 The Commission shall hold a public hearing on a request for an extension of the validity of an application approval only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the proceeding concerning any of the criteria in Subtitle Z § 705.2. The hearing shall be limited to the specific and relevant evidentiary issues in dispute.

705.8 In the event an appeal is filed in a court of competent jurisdiction from an order of the Commission, the time limitations of Subtitle Z §§ 705.3 and 705.5 shall run from the decision date of the court's final determination of the appeal. Unless stayed by the Commission or a court of competent jurisdiction, an applicant may proceed pursuant to the order of the Commission prior to any such final determination.

706 EXPIRATION AND DISMISSAL

706.1 Any contested case application for which a public hearing has not been held before the Commission within two (2) years from the date of the application being filed with the Office of Zoning shall be deemed dismissed without prejudice.

706.2 A PUD for which a public hearing has not been held before the Commission within two (2) years from the date of when the Commission set the case down for public hearing shall be deemed dismissed.

706.3 All filing fees relative to a dismissed or expired application under this section shall be non-refundable and not applicable to any future consideration of any case.

CHAPTER 8 SUA SPONTE REVIEW

800 *SUA SPONTE* REVIEW BY ZONING COMMISSION

800.1 The provisions of this section shall apply to all Board of Zoning Adjustment appeals and applications, except chancery proceedings.

800.2 Within ten (10) days after the decision and order of the Board of Zoning Adjustment has become final as provided in Subtitle Y § 604.8, the Commission may, *sua sponte*, determine to review any final decision and order of the Board of Zoning Adjustment and stay the effect of the decision and order pending completion of its review.

800.3 The Commission's determination to review a decision and order of the Board of Zoning Adjustment shall be transmitted forthwith to the Director, who shall forward to the Commission the record in the case and serve notice of the Commission's determination to review the Board of Zoning Adjustment's decision and order upon all parties to the case.

800.4 Upon receipt of the record, the Commission shall review the case and take such action as it deems appropriate; provided, however, the Commission shall not reverse or modify any decision and order of the Board of Zoning Adjustment without affording the parties to the case an opportunity to present written statements to the Commission in support of or in opposition to the action of the Board of Zoning Adjustment.

800.5 Any action by the Commission may include, without limitation, any of the following:

(a) Hearing argument based on the existing record in the case before the Board of Zoning Adjustment;

(b) Affirmance, modification, or reversal of the Board of Zoning Adjustment's decision and order; and

(c) Remanding the case to the Board of Zoning Adjustment for reconsideration, rehearing, or other action pursuant to the instructions of the Commission.

800.6 The *sua sponte* review process established in this section shall not grant any rights of appeal to the Commission.

800.7 Because there is no right of appeal to the Commission from any action of the Board of Zoning Adjustment, the Commission need not answer any communications to the Commission (regardless of the form) requesting that *sua sponte* review be undertaken. *Sua sponte* review is a discretionary internal process.

800.8 The Commission shall look to the following guidelines when determining whether to invoke its *sua sponte* review authority. The Commission may exercise *sua sponte* review as follows:

(a) In a particular instance where it appears to the Commission that the Board of Zoning Adjustment has exceeded its authority and has thus in effect changed the zoning;

(b) Where it appears that a basic policy of the Commission, as expressed in the Zoning Regulations, has been violated as a result of action by the Board of Zoning Adjustment; or

(c) In an unusual instance, as determined by the Commission.

CHAPTER 9 REMAND PROCEDURE

900 INTRODUCTION TO THE REMAND PROCESS

900.1 This chapter provides regulations for Commission to follow when the District of Columbia Court of Appeals remands a Commission decision for further proceedings.

901 REMAND PROCEDURES

901.1 Upon receipt of a Court of Appeals mandate remanding a Commission decision, the Director shall request the Office of the Attorney General (OAG) to provide a memorandum that:

(a) Summarizes the Court of Appeals holding;

(b) Identifies the issues that must be decided on the remand; and

(c) Provides such further information and analysis as to enable the Commission to comply with the remand instructions.

901.2 Following receipt of the OAG memorandum, the Commission may meet to determine whether it should request the parties to submit briefs, provide additional oral or documentary evidence, present oral argument, or to augment the record by other means.

901.3 If it is determined that any of these actions are needed, the Commission shall issue a procedural order identifying the actions required and the timeframe within which those action must occur. The order shall be sent to any party who participated in the earlier proceedings, or the party's authorized representative.

901.4 No new parties shall be added to the case, and the Office of Zoning shall not accept requests for party status.

901.5 If a further hearing is ordered, the procedural order shall be issued no earlier than fourteen (14) days prior to the date set for the further hearing. The Director may provide such other notice of the hearing, as he or she deems appropriate.

901.6 Testimony at any further hearing shall be limited to witnesses called by the parties, unless the procedural order states otherwise.

901.7 Once the Commission Chairperson believes that the record is sufficient to permit deliberation, the Commission Secretary shall distribute to each Commission member the case record and schedule the case for decision.

901.8 Any Commission member who did not participate in the original decision shall indicate that he or she has read the record as a prerequisite to participating in the remand deliberations.

CHAPTER 10 THROUGH CHAPTER 15 [RESERVED]

CHAPTER 16 FEES

1600 FILING FEES

1600.1 At the time of filing a petition for a rulemaking map amendment, the petitioner shall pay a filing fee of three hundred twenty-five dollars ($325).

1600.2 At the time of filing a petition for an amendment to the text of the Zoning Regulations, the petitioner shall pay a filing fee of three hundred twenty-five dollars ($325).

1600.3 At the time of filing an application for approval of a planned unit development (PUD), contested case map amendment, or air space development, the applicant shall pay a filing fee of six hundred fifty dollars ($650).

1600.4 At the time of filing an application for a modification to an approved PUD or air space development, the applicant shall pay a filing fee of five hundred twenty dollars ($520).

1600.5 At the time of filing an application for a college or university use, the applicant shall pay a filing fee of six thousand five hundred dollars ($6,500) for the processing a new or revised campus plan, and three thousand two hundred fifty dollars ($3,250) for review of a specific building or use within an approved plan.

1600.6 At the time of filing an application for approval of a required design review, the applicant shall pay the following filing fee:

(a) For each one hundred square feet (100 sq. ft.) of gross floor area or part thereof included in the application devoted to dwelling units, and the immediate area needed to serve that dwelling unit, seven dollars ($7), with a maximum of sixty-five thousand dollars ($65,000);

(b) For each one hundred square feet (100 sq. ft.) of gross floor area or part thereof included in the application devoted to any use other than a dwelling unit and the immediate area needed to serve that dwelling unit, thirteen dollars ($13); and

(c) In the case of an application that combines dwelling units and other uses, the fee shall be the total of the amounts for each use computed separately.

1600.7 At the time of filing an application for approval of a voluntary design review, the applicant shall pay a filing fee of two thousand dollars ($2,000).

1600.8 At the time of filing an application for a modification to an approved required design review, the applicant shall pay a filing fee of twenty-six percent (26%) of the original filing or one thousand three hundred dollars ($1,300), whichever is greater.

1600.9 At the time of filing an application for a modification to an approved voluntary design review, the applicant shall pay a filing fee of fifteen hundred dollars ($1,500).

1600.10 At the time of filing a request for approval of an extension of time to the validity of a Zoning Commission order, the applicant shall pay a filing fee of five hundred twenty dollars ($520).

1600.11 Fees for any additional relief for special exception or variance will be assessed pursuant to Subtitle Y § 1600 – Schedule of Filing Fees.

TABLE Z § 1600 – SCHEDULE OF FILING FEES

CASE TYPE	FEE	MAXIMUM
Map amendment by rulemaking	$325	
Text amendment	$325	
Planned unit development (PUD), contested case map amendment, air space development	$650	
Modification to an approved PUD, air space development	$520	
Extension of time to the validity of an order for an approved design review or PUD	$520	
College or university – new or revised campus plan	$6,500	
College or university – review of a building or use w/in an approved plan	$3,250	
Design review (voluntary)	$2,000	
Design review (required)		
For each one hundred square feet (100 sq. ft.) of gross floor area or part thereof included in the application devoted to dwelling units, and the immediate area needed to serve that dwelling unit	$ 7/100 sq. ft.	$65,000
For each one hundred square feet (100 sq. ft.) of gross floor area or part thereof included in the application devoted to any use other than a dwelling unit and the immediate area needed to serve that dwelling unit	$13/100 sq. ft.	
Modification to approved design review		
Voluntary	$1,500	$1,500
Required	26% of the original hearing fee or $1,300, whichever is greater	

1601 HEARING FEES

1601.1 If the Commission schedules a public hearing on an application or petition for an amendment to the Zoning Map, prior to advertisement of the hearing, the applicant or petitioner shall pay a hearing fee in accordance with the following schedule:

(a) For a map amendment to any R-1 through R-3, R-6 through R-17, or R-19 through R-21 zone, for each forty-three thousand five hundred and sixty square feet (43,560 sq. ft.) or part of that area, six hundred fifty dollars ($650);

(b) For a map amendment to any RF-1 through RF-3 zone and RA-1 or RA-6 zone, for each forty-three thousand five hundred and sixty square feet (43,560 sq. ft.) or part of that area, one thousand six hundred twenty-five dollars ($1,625);

(c) For a map amendment to any RA-2, RA-7, RA-8, or RC-1 zone, for each forty-three thousand five hundred and sixty square feet (43,560 sq. ft.) or part of that area, three thousand two hundred fifty dollars ($3,250);

(d) For a map amendment to any RA-3 through RA-5, RA-9, RA-10, D-1-R, SEFC-2, SEFC-3, or CG-1 zone, for each forty-three thousand five hundred and sixty square feet (43,560 sq. ft.) or part of that area, six thousand five hundred dollars ($6,500);

(e) For a map amendment to any MU-1, MU-2, MU-10 through MU-16, MU-22, MU-23, MU-29, D-2, SEFC-1, SEFC-4, CG4 through CG-7, and ARTS-4 zone, for each ten thousand square feet (10,000 sq. ft.) or part of that area, two thousand six hundred dollars ($2,600);

(f) For a map amendment to any MU-3 through MU-6, MU-17 through MU-19, MU-24 through MU-27, NC-1 through NC-5, NC-7, NC-9 through NC-11, NC-14, NC-16, NC-17, D-4-R, CG-2, ARTS-1, ARTS-2, RC-2 and RC-3 zone, for each ten thousand square feet (10,000 sq. ft.) or part of that area, one thousand six hundred twenty-five dollars ($1,625);

(g) For a map amendment to any MU-7 through MU-9, MU-20, MU-21, MU-28, NC-6, NC-8, NC-12, NC-13, NC-15, D-3 through D-5, D-5-R, D-6, D-6-R, D-7, D-8, CG-3, and ARTS-3 zone, for each ten thousand square feet (10,000 sq. ft.) or part of that area, three thousand two hundred fifty dollars ($3,250);

(h) For a map amendment to any PDR-1 through PDR-7 zone, for each twenty thousand square feet (20,000 sq. ft.) or part of that area, two thousand six hundred dollars ($2,600);

(i) The maximum hearing fee for a map amendment listed in Subtitle Z §§ 1601.1(a) through (d) shall be sixty-five thousand dollars ($65,000); and

(j) For an application or petition that proposes a map amendment to more than one (1) zone or is in the alternative, the fee shall be the total of the amounts for the area devoted to each proposed district or alternative computed separately.

1601.2 An applicant or petitioner shall not be required to pay a hearing fee for any alternative districts added by the Commission at the time it sets the case for hearing.

1601.3 If the Commission schedules a public hearing on a petition for an amendment to the text of the Zoning Regulations, prior to the advertisement of the hearing, the

petitioner shall pay a hearing fee of three hundred twenty-five dollars ($325) for each section of this title proposed to be added, deleted, or amended, with a maximum hearing fee of one thousand three hundred dollars ($1,300).

1601.4 If the Commission schedules a public hearing on an application for approval of a PUD or air space development, prior to the advertisement of the hearing, the applicant shall pay a hearing fee in accordance with the following schedule:

(a) For each one hundred square feet (100 sq. ft.) of gross floor area or part thereof included in the application devoted to dwelling units, and the immediate area needed to serve that dwelling unit, seven dollars ($7), with a maximum of sixty-five thousand dollars ($65,000);

(b) For each one hundred square feet (100 sq. ft.) of gross floor area or part thereof included in the application devoted to any use other than a dwelling unit and the immediate area needed to serve that dwelling unit, thirteen dollars ($13);

(c) In the case of an application that combines dwelling units and other uses, the fee shall be the total of the amounts for each use computed separately; and

(d) There shall be no charge for the hearing on the second-stage of a two-stage PUD application.

1601.5 In the case of an application or petition combining two (2) or more actions described in this section, the fee charged shall be the greatest of all the fees computed separately.

1601.6 If the Commission schedules a public hearing on an application for a modification to an approved PUD or air space development, prior to the advertisement of the hearing, the applicant shall pay a hearing fee equal to twenty-six percent (26%) of the original hearing fee or one thousand three hundred dollars ($1,300), whichever is greater.

1601.7 An application for a modification to an approved required or voluntary design review shall pay the same hearing fee as stated in Subtitle Z § 1601.6 at the time the application is filed.

TABLE Z § 1601 – SCHEDULE OF HEARING FEES

MAP AMENDMENT			
Case Type	**Unit**	**Fee**	**Maximum**
R-1 through R-3, R-6 through R-17, or R-19 through R-21 zone	43,560 sq. ft. or part of that area	$ 650	$65,000
RF-1 through RF-3 zone and RA-1 or RA-6	43,560 sq. ft. or part of that area	$1,625	$65,000
RA-2, RA-7, RA-8, or RC-1	43,560 sq. ft. or part of that area	$3,250	$65,000
RA-3 through RA-5, RA-9, RA-10, D-1-R, SEFC-2,	43,560 sq. ft. or	$6,500	$65,000

MAP AMENDMENT			
Case Type	**Unit**	**Fee**	**Maximum**
SEFC-3, or CG-1 zone	part of that area		
MU-1, MU-2, MU-10 through MU-16, MU-22, MU-23, MU-29, D-2, SEFC-1, SEFC-4, CG4 through CG-7, and ARTS-4 zone	10,000 sq. ft. or part of that area	$2,600	
MU-3 through MU-6, MU-17 through MU-19, MU-24 through MU-27, NC-1 through NC-5, NC-7, NC-9 through NC-11, NC-14, NC-16, NC-17, D-4-R, CG-2, ARTS-1, ARTS-2, RC-2 and RC-3 zone	10,000 sq. ft. or part of that area	$1,625	
MU-7 through MU-9, MU-20, MU-21, MU-28, NC-6, NC-8, NC-12, NC-13, NC-15, D-3 through D-5, D-5-R, D-6, D-6-R, D-7, D-8, CG-3, and ARTS-3 zone	10,000 sq. ft. or part of that area	$3,250	
PDR-1 through PDR-7 zone	20,000 sq. ft. or part of that area	$2,600	
TEXT AMENDMENT			
Case Type	**Unit**	**Fee**	**Maximum**
Each section of this title proposed to be added, deleted, or amended	Per section modified	$ 325	$ 1,300
PLANNED UNIT DEVELOPMENT OR AIR SPACE DEVELOPMENT			
Case Type	**Unit**	**Fee**	**Maximum**
For each one hundred square feet (100 sq. ft.) of gross floor area or part thereof included in the application devoted to dwelling units, and the immediate area needed to serve that dwelling unit	100 sq. ft. of gross floor area or part of that area	$ 7	$65,000
For each one hundred square feet (100 sq. ft.) of gross floor area or part thereof included in the application devoted to any use other than a dwelling unit and the immediate area needed to serve that dwelling unit	100 sq. ft. of gross floor area or part of that area	$ 13	
MODIFICATION TO A PLANNED UNIT DEVELOPMENT OR AIR SPACE DEVELOPMENT			
Case Type	**Unit**	**Fee**	**Maximum**
Modification to an approved design review, PUD, air space development, or any other action where review of a specific site or building plan was required		26% of the original hearing fee or $1,300, whichever is greater	

1602 WAIVER OF HEARING FEES

1602.1 In the case of an application to permit the construction of a low- or moderate-income subsidized housing development, the D.C. Department of Housing and Community Development may request the Commission to waive the normal hearing fee.

1602.2 For the purposes of this section, the term "subsidized housing development" shall mean a housing development that is eligible to receive funding from a recognized District of Columbia or federal government housing subsidy program. Low- or moderate- income projects shall be as defined by the U.S. Department of Housing and Urban Development.

1602.3 The Application must be filed prior to the Commission's decision to set down the application for a hearing. The Commission shall rule upon the request for waiver of fees at the time the matter is set down for public hearing.

1602.4 To obtain the waiver, the applicant shall file with the application the request of the D.C. Department of Housing and Community Development.

1602.5 The request shall certify that the proposed development meets the requirements of Subtitle Z § 1602.2, and shall state why the proposed waiver should be granted.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

1603 EXEMPTION FROM FEES

1603.1 A department, office, or agency of the government of the District of Columbia is not required to pay a filing or hearing fee for an application, where the property is owned by the District of Columbia or that agency or is under one (1) or both of their jurisdictions and the property is to be used for a government building or use.

1603.2 The following person or entities shall not be required to pay a filing or hearing fee for a petition to amend the Zoning Map or the text of the Zoning Regulations:

(a) A department, office, or agency of the government of the District of Columbia, including an Advisory Neighborhood Commission (ANC);

(b) The National Capital Planning Commission; or

(c) A citizens' association or association created for civic purposes that is not for profit.

1604 MISCELLANEOUS FEES

1604.1 Fees for miscellaneous zoning services and documents provided by the Office of Zoning are as prescribed in Subtitle Y § 1601.

1605 ADMINISTRATION OF FEES

1605.1 The Director shall be responsible for administering, interpreting, and applying the terms of the fee schedule in Subtitle Z §§ 1600 and 1601.

1605.2 All fees shall be paid by check or money order made payable to the D.C. Treasurer, or by credit card where indicated by the Office of Zoning.

1605.3 Once a filing or hearing fee has been submitted, it will not be refunded.

1606 REVIEW OF FEES

1606.1 Upon the effective date of this title, and on a tri-annual basis thereafter, the Office of Zoning shall update the Commission on the status of their fees.

1606.2 If the Office of Zoning finds that the fees should remain the same, it shall indicate its findings to the Commission.

1606.3 If the Office of Zoning finds that the fees should be increased, then it shall submit a petition to the Commission for an increase of the fees.

1606.4 The Commission, on its own, can propose to increase the fees at any time.

CHAPTER 17 APPOINTMENT OF DIRECTOR

1700 PROCESS FOR APPOINTING THE DIRECTOR

1700.1 The Director of the Office of Zoning (Director) shall be appointed by the District members of the Commission and shall serve as an Excepted Service employee in accordance with D.C. Official Code § 1-609.01.

1700.2 The Director shall be a District resident throughout his or her term, and failure to maintain District residency shall result in a forfeiture of the position.

1700.3 Appointments to the Director may be made by competitive or non-competitive appointment; however, a person appointed as Director shall meet the minimum qualifications requirements for the position.

1700.4 Selection procedures for competitive appointment shall:

(a) Be practical in character and fairly test the relative ability and fitness of candidates for jobs to be filled;

(b) Result in selection from among the best qualified candidates;

(c) Be developed and used without discrimination, as required by the D.C. Human Rights Act of 1977, as amended; and

(d) Comply with other requirements of applicable equal employment opportunity and affirmative action laws and regulations.

1700.5 Selection procedures for competitive appointment shall be conducted through the D.C. Department of Human Resources.

1700.6 Selection procedures for non-competitive appointment shall be at the discretion of the District members of the Commission.